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Friday
May 1, 1992

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 28, at 9:00 a.m.
WHERE: Office of the Federal Register.
First Floor Conference Room.
1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.
DIRECTIONS: North on 11th Street from
Metro Center to corner
of 11th and L Streets

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1211

[FV-91-277]

RIN 0581-AA50

Pecan Promotion and Research Plan

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes a national, industry-funded pecan promotion, research, and industry and consumer information program by establishing the Pecan Promotion, Research, and Consumer Information Plan (Plan). This Plan requires pecan growers, grower-shellers, and importers to pay an assessment which will be used to finance a national program for pecan promotion, research, and industry and consumer information.

EFFECTIVE DATE: May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Jim Wendland, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2533-S, Washington, DC 20090-6456, telephone (202) 720-9916.

SUPPLEMENTARY INFORMATION: This final Plan is authorized under the Pecan Promotion and Research Act of 1990 (subtitle A of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990; Pub. L. 101-624) approved November 28, 1990, and as amended by Public Law 102-237, hereinafter referred to as the Act.

This final Plan has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1913 of the Act, a person subject to the Pecan Promotion and Research Plan may file with the Secretary a petition stating that the plan, any provision of the plan, or any obligation imposed in connection with the plan is not in accordance with law and requesting a modification of the plan or an exemption from the plan. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the person who is a petitioner resides or carries on business has jurisdiction to review the ruling on the petition, if a complaint is filed within 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final action on small entities.

The most recent available census of agricultural producers indicates that over 21,000 farms in the United States reported having pecan trees. The majority of these producers will be subject to the Plan and be classified as small businesses. Producers or growers engaged in the production and sale of pecans will be subject to being assessed under this Plan. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms, which include pecan handlers, shellers, grower-shellers and importers, have been defined as those having annual receipts of less than $3,500,000. Also, there are approximately 2,000 pecan handlers, 115 shellers and 25 importers who will be subject to the provisions of this final Plan, the majority of whom are also classified as small entities. During the 1990 crop year, 205 million pounds of pecans were produced in the United States. Pecan imports reported by the Foreign Agricultural Service for calendar year 1990 were nearly 29 million pounds inshell and 7 million pounds shelled coming from Mexico, 0.167 million pounds inshell and 1.8 million pounds shelled from Australia, and 2,200 pounds of shelled pecans from Israel.

This final Plan requires each pecan grower or grower-sheller and importer to pay an assessment not to exceed two cents per pound of inshall pecans. First handlers of pecans, virtually all of whom would be classified as small firms, are required to collect and remit the assessments. Although the maximum assessment collection is expected to total about $6 million annually, the economic impact of a two cent or less assessment per pound on each grower or importer will not be significant.

While this final Plan imposes certain recordkeeping requirements on first handlers, importers, grower-shellers, and growers, some information required under the Plan could be compiled from records currently maintained. Thus, any added burden resulting from increased recordkeeping will not be significant when compared to the benefits that are expected to accrue to such businesses. The Plan's provisions were carefully reviewed, and effort was made to minimize any unnecessary costs or requirements.

Although the Plan could impose some additional costs and requirements on first handlers, grower-shellers, importers, and some growers who are their own first handlers, it is anticipated that the program under this final Plan will encourage, expand, improve or make more efficient the marketing and utilization of pecans and the development and expansion of pecan sales in foreign markets. Therefore, any additional costs should be offset by the benefits derived from expanded markets and sales benefitting growers, importers, and first handlers alike.

Based on the above, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic effect on a substantial number of small entities.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) the forms, reporting, and recordkeeping requirements included in this action have been approved by the Office of Management and Budget (OMB) and were assigned OMB No. 0581–0093, except for Board member nominee information sheets that were previously assigned OMB No. 050–0001. This action sets forth the provisions of the final Plan which establishes a nation-wide program for pecan promotion, research, and information to be funded by pecan growers and importers. Information collection requirements that are included in this final Plan include:

(1) A periodic report by each first handler and importer who handles or imports pecans. The estimated maximum number of respondents is 2,010, each submitting an average of 5 responses per year, with an estimated average reporting burden of one-half hour per response. However, these persons may alternatively prepay assessments annually, requiring only an initial report of anticipated assessments and a final annual report of actual handling;

(2) A refund application form for persons who desire a refund of their assessments. The estimated maximum number of respondents is 1,000, each submitting 2 responses per year, with an estimated average reporting burden of .10 hour per response;

(3) An exemption application for growers, handlers and importers of pecans for non-food uses to be exempt from assessments and recordkeeping requirements. The estimated number of respondents for this form is 5, each submitting one response per year, with an estimated average burden of .083 hour per response;

(4) A referendum ballot to be used in 1994 and periodically thereafter to indicate whether growers, grower-shellers, and importers favor continuance of the Plan. The estimated maximum number of respondents for this form is an annual average of 4,400, with an estimated average reporting burden of .10 hour per response;

(5) A nominee background statement form for Board member and alternate member nominees. The estimated number of respondents for this form is 60 during the first year of Plan operations and approximately 20 annually thereafter. Each respondent will submit one response per year, with an estimated average reporting burden of 10 hour per response; and

(6) A requirement to maintain records sufficient to verify reports submitted under the Plan. The estimated maximum number of recordkeepers necessary to comply with this requirement is 2,010, each of whom will have an estimated annual burden of .12 hour.

Background

The Act authorizes the Secretary of Agriculture (Secretary) to establish a national pecan promotion, research, and information program. This program will be funded by an assessment on growers, grower-shellers, and importers not to exceed two cents per pound of inshell pecans.

The Act provided for the submission of proposals for a pecan promotion, research, and information plan by industry organizations or any other interested person. The Act further required that such a Plan provide for the establishment of a Pecan Marketing Board (Board). The Board will be composed of 15 voting members, including 8 growers, 4 shellers, 1 first handler, 1 importer and 1 public member, with an alternate for each member.

The Department published an invitation to submit proposals for an initial plan in the January 30, 1991, issue of **Federal Register** (56 FR 3425). In the July 3, 1991, issue (56 FR 30517) the Department extended the submission period for proposals to July 10, 1991, at the request of an industry group.

In response to the invitation to submit proposed plans, one letter supporting such a program was received from Oakhurst Ranch, Lindale, Texas; a proposal requesting $600,000 to establish a Pecan Center was received from Mr. James Crump with the Seguin, Texas, Chamber of Commerce; and one proposed plan was received from the Federated Pecan Growers' Associations of the United States (Federated). Federated's proposal was accompanied by a statement of unanimous support by all of its State and regional pecan grower associations and the National Pecan Shellers and Processors Association for the proposed plan.

In the December 26, 1991, issue of the **Federal Register** (56 FR 66799) the Department published a proposed Plan, with some modification of the provisions in Federated's proposal, including changes to make it consistent with the Act and other similar national research and promotion programs administered by the Department. These modifications included a revision of Federated's proposal that § 1211.30 specify that grower and sheller Board members nominate the first handler member and alternate. This is contrary to section 1910(b)(8)(B) of the Act which requires that "Growers shall be eligible to vote for the nomination of the first handler members of the Board." Also, Federated's proposal specified that half or less of the total amount of domestic assessments could be spent on the development and expansion of pecan sales in foreign markets. However, section 1911(g) of the Act does not specify any limit. Therefore, the amount of money expended for the development of foreign markets would be determined through the budget process in the same manner as other expenditures. Further, Federated's proposal set the initial assessment rate as one-half cent per pound for in-shell pecans. However, section 1912(d) of the Act specifies that the assessment rate shall be recommended by the Board and approved by the Secretary, except that the maximum rate shall not exceed one-half cent per pound for in-shell pecans until the date the initial referendum is conducted under section 1916(a).

Interested persons were invited to submit comments on the proposal until January 27, 1992. Twenty-eight comments were received in response to the proposed Plan, seven of which were received after the deadline for submission of comments. Five of the late comments were in favor; two had mixed reactions. They expressed concerns which were similar, for the most part, to those in comments which were submitted on a timely basis and which are discussed below.

The 17 comments in favor of the Plan as proposed include comments from six members of the Arizona Pecan Growers Association, Sahuarita, Arizona, and one comment from each of the following 11 businesses or organizations: The Great San Saba River Pecan Company, San Saba, Texas; Farmers Investment Company, Sahuarita, Arizona; Haley Farms, Albany, Georgia; Southeastern Pecan Growers Association; L&M Enterprises Incorporated, Cordele, Georgia; Western Pecan Growers Association, Mesilla Park, New Mexico; Bass Orchards, Lumberton, Mississippi; California Pecan Growers Association, Visalia, California; Georgia Farm Bureau Federation, Macon, Georgia; Florida Pecan Growers Association, Gainesville, Florida; and Georgia Pecan Growers Association, Incorporated, Leesburg, Georgia.

Modifications to the proposed Plan were recommended by three additional commenters: The Oklahoma Pecan Growers Association, Bristow, Oklahoma; the Federated Pecan Growers' Association, Baton Rouge,

Louisiana; and a producer from Madill, Oklahoma.

These commenters suggested amending the proposed Plan by inserting the words "on a national basis" at the end of § 1211.25, and by inserting the words "In all parts of the United States and only generically promote pecans" at the end of § 1211.40(c). These commenters would like the Plan to clearly state that pecans will only be promoted generically, and on a national basis, as opposed to promoting pecans from a specific region of the United States. The recommendation to indicate that promotion would be carried out on a national basis is denied. However, the objective to clearly state that promotion is to benefit the entire industry is incorporated into the final Plan. The last sentence in § 1211.40 of the final Plan has been revised to read: "It shall be the objective of the Board to carry out programs and projects which will provide maximum benefit to the entire pecan industry."

The three commenters' recommendation to add the word "generic" is denied because it would be redundant. The proposed Plan clearly states in paragraph (d) of § 1211.41 that advertising or any program or project that makes any reference to a variety, brand, trade name, state, or regional identification is prohibited.

These three commenters also recommended that § 1211.42 of the Plan should be revised to clearly state that the Board may have the power to enter into contracts or make agreements "with persons, and/or grower and grower-sheller organizations" for the development of projects and plans. The suggested revision is accepted and is incorporated, with a minor editorial modification, into the introductory paragraph of § 1211.42 of the final Plan.

Two of the three commenters recommending changes to the Plan further suggested amending § 1211.38(b) to include authority for the Pecan Marketing Board to recommend, to the Secretary, minimum quantities of pecans which would be handled exempt from the reporting requirements contained in §§ 1211.51 and 1211.60. The Plan as proposed provides authority to change reporting periods, but there is not authority in the Act to exempt minimum quantities of pecans entirely from the reporting requirements. Therefore, this recommendation is denied.

The same two commenters also suggested revising the definition of shelled pecans in § 1211.6 to include partially shelled pecans. This recommendation is inconsistent with the definition of shelled pecans in the Act and, therefore, is also denied.

One of the three commenters favoring changes to the proposal also suggested amending § 1211.31(b)(2) by deleting the words "and trends" and leaving the words "shifts in quantities." This comment is denied on the grounds that it is inconsistent with the intent of Act and with other similar promotion and research plans.

One final commenter, a producer in Wing, Alabama, opposed the Plan in general. This commenter contends that a marketing plan would not improve the market for pecans on the national level and that a few large growers will control the program. In response, a majority of those commenting on the proposed Plan support implementation in belief that a national effort to stimulate demand for pecans will benefit the industry as a whole. In addition, all growers, large and small alike, will have the opportunity to participate in the program. Further, it is stated in § 1916 of the Act that pecan growers, grower-shellers, and importers shall vote in a referendum not later than two years after the effective date of its issuance on whether the Plan is to be continued, terminated, or suspended. At that time, each individual voter can evaluate the program and vote accordingly.

In addition to the preceding analysis of comments, one section of the Plan was modified for clarity to include a reference to the oversight responsibilities of the Secretary. That section is § 1211.50(a) regarding budgets and analyses. Additional non-substantive changes were also made for clarity and paragraph (b) of § 1211.72 was deleted, since it is unnecessary to include it in the Plan.

After consideration of all relevant material presented, including the initial proposal, comments received, and other available information, it is found that the Plan, and all of the terms and conditions thereof, tends to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because the Pecan Marketing Board, the administrative agency provided for in the Plan requires a lengthy time period to be nominated, selected, and start to function. The pecan industry has requested that the program become operational as soon as possible so that promotional and other activities can be in place as soon as possible. Before the program can begin, it will be necessary for the Board to recommend a budget of anticipated expenses to the Department for review, modification or approval. Also, it will be necessary for the Board to hire a staff and establish an office to carry out the needed administrative functions. Further, interested persons were afforded a 30-day comment period, and no useful purpose would be served in delaying the effective date. Therefore, this final rule is effective on the date of publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1211

Administrative practice and procedure, Advertising, Agricultural research, Imports, Marketing agreements, Pecans, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, title 7 of the Code of Federal Regulations is hereby amended by adding part 1211 to read as follows:

PART 1211—PECAN PROMOTION AND RESEARCH PLAN

Subpart A—Pecan Promotion and Research Plan

Definitions

Sec.

Pecan Marketing Board

Research and Promotion

Authority: The Pecan Promotion and Research Act of 1990, as amended; 7 U.S.C. 6001 *et seq.*

Definitions

§ 1211.1 Secretary.

Secretary means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1211.2 Act.

Act means the Pecan Promotion and Research Act of 1990. (title XIX, subtitle A of Pub. L. 101–624, 7 U.S.C. 6001, *et seq.*, 104 Stat. 3838–3854), and any amendments thereto.

§ 1211.3 Board.

Board means the administrative body referred to as the Pecan Marketing Board, established pursuant to § 1211.30.

§ 1211.4 Pecan.

Pecan means the nut of the pecan tree *Carya illinoensis*.

§ 1211.5 Shell.

Shell means to remove the shell from an in-shell pecan.

§ 1211.6 Shelled pecan.

Shelled pecan means a pecan kernel, or portion of a kernel, after the pecan shell has been removed.

§ 1211.7 In-shell pecan.

In-shell pecan means a pecan that has a shell that has not been removed.

§ 1211.8 Person.

Person means any individual, group of individuals, partnership, association, corporation, cooperative, or any other entity.

§ 1211.9 Grower.

Grower means any person engaged in the production and sale of pecans in the United States who owns, or who shares in the ownership and risk of loss of, such pecans.

§ 1211.10 Importer.

Importer means any person who imports pecans from outside of the United States for sale in the United States.

§ 1211.11 First handler.

First handler means the first person who buys or takes possession of pecans from a grower for marketing. If a grower markets pecans directly to consumers, such grower shall be considered the first handler with respect to such pecans.

§ 1211.12 Grower-sheller.

Grower-sheller means a person who:

(a) Shells pecans, or has pecans shelled for such person, in the United States; and

(b) During the immediately preceding year, grew 50 percent or more of the pecans such person shelled or had shelled for such person.

§ 1211.13 Sheller.

Sheller means any person who:

(a) Shells pecans or has pecans shelled for the account of such person; and

(b) During the immediately preceding year, purchased more than 50 percent of the pecans such person shelled or had shelled for such account.

§ 1211.14 Handle.

Handle means receipt of in-shell pecans by a sheller or first handler, including pecans produced by such sheller or first handler.

§ 1211.15 Commerce.

Commerce means interstate, foreign, or intrastate commerce.

§ 1211.16 Conflict of interest.

Conflict of interest means a situation in which a Board member has a direct or indirect financial interest in a corporation, partnership, sole proprietorship, joint venture or other business entity dealing directly or indirectly with the Board.

§ 1211.17 Consumer and industry information.

(a) *Consumer information* means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of pecans.

(b) *Industry information* means information and programs that will lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the pecan industry.

§ 1211.18 Customs Service.

Customs Service means the U.S. Customs Service of the United States Department of Treasury.

§ 1211.19 Department.

Department means the United States Department of Agriculture.

§ 1211.20 To market.

To market means to sell or offer to dispose of pecans in any channel of commerce.

§ 1211.21 Marketing year or fiscal period.

Marketing year or *fiscal period* means the twelve-month period from October 1 through September 30 each year, or such other period as recommended by the Board and approved by the Secretary.

§ 1211.22 Programs and projects.

Programs and *projects* mean those research, development, industry and consumer information, advertising, or promotion projects developed by the Board pursuant to § 1211.41 of this part.

§ 1211.23 Promotion.

Promotion means any action taken by the Board, pursuant to this part, to present a favorable image of pecans to the public with the express intent of improving the competitive position of pecans in the marketplace and stimulating sales of pecans, including paid advertising.

§ 1211.24 Referendum.

Referendum means the referendum to be conducted by the Secretary pursuant to § 1916 of the Act whereby growers, grower-shellers, and importers shall be given the opportunity to vote to determine whether a majority of the growers, grower-shellers, and importers voting in the referendum, favor continuation, termination, or suspension of this plan.

§ 1211.25 Research.

Research means any type of test, study, or analysis designed to advance the image, desirability, usage, marketability, production, product development, or quality of pecans.

§ 1211.26 State and United States.

(a) *State* means any of the several States, the District of Columbia and the Commonwealth of Puerto Rico.

(b) *United States* means collectively the several States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 1211.27 District.

District means a geographical area of the United States, as recommended by the Board and approved by the Secretary, in which there is produced approximately one-fourth of the volume of pecans produced in the United States.

§ 1211.28 Plan.

Plan means this Pecan Promotion and Research Plan issued by the Secretary pursuant to section 1908 of the Act.

§ 1211.29 Processor.

Processor means an individual, corporation or entity which starts a series of progressive and independent steps using pecans by which an end product is obtained for final consumer consumption or sale, such as a bakery, ice cream manufacturer, or cookie maker.

Pecan Marketing Board

§ 1211.30 Establishment and membership.

(a) There is hereby established a Pecan Marketing Board, hereinafter called the Board. The Board shall consist of fifteen (15) members to administer the terms and provisions of this part. Eight members shall be pecan growers, not exempt from paying assessments under the Act; four members shall be pecan shellers; one member shall be a first handler; one member shall be a pecan importer, not exempt from paying assessments under the Act; and one member shall be a public member. Each member shall have an alternate who shall have the same qualifications as the member for whom such person is an alternate. At the option of the Board, one consultant or advisor representing the views of pecan growers in a country other than the United States may be chosen to attend Board functions as a nonvoting member.

(b) Membership on the Board shall be determined as follows: Two grower members shall represent each of the four districts; two sheller members shall represent shellers whose place of residence is east of the Mississippi River and two sheller members shall represent shellers whose place of residence is west of the Mississippi River; the first handler member shall be selected from among eligible first handlers whose place of residence is in any one of the four districts and derives over 50 percent of such handler's gross pecan income from buying and selling pecans; one importer member shall be an individual who import pecans into the United States; and the public member shall have no direct financial interest in the commercial production or marketing of pecans except as a consumer and shall not be a director, stockholder, officer or employee of any firm so engaged.

§ 1211.31 Districts.

(a) Districts shall have approximately equal production volume according to the most recent three years' U.S. Department of Agriculture production reports. For the purpose of facilitating initial nominations to the Board, the following districts shall be the initial districts:

(1) District 1—The States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, West Texas (West of Highway 277 from Del Rio to Stamford and Highway 6 from Stamford to Quanah and the Oklahoma line), Utah, Washington, and Wyoming.

(2) District 2—The States of Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, East Texas (East of Highway 277 from Del Rio to Stamford and Highway 6 from Stamford to Quanah and the Oklahoma line) and Wisconsin.

(3) District 3—The States of Alabama, Arkansas, Connecticut, Illinois, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, and West Virginia.

(4) District 4—The States of Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) At least once every three years and not more than once each two years, the Board shall review the geographic distribution of pecan production throughout the United States to determine whether realignment of the districts is necessary. In making such review, it shall give consideration to:

(1) The most recent four years of U.S. Department of Agriculture production reports or Board assessment reports if USDA production reports are unavailable, and such other acceptable sources as determined by the Board;

(2) Shifts and trends in quantities of pecans produced; and

(3) Other relevant factors.

As a result of this review, the Board may recommend realigning the districts subject to the approval of the Secretary. Any such realignment shall be recommended by the Board to the Secretary at least six months prior to the date of the call for nominations and shall become effective at least 30 days prior to such date.

§ 1211.32 Nominations and selections.

The Secretary shall appoint the grower and sheller members and their alternates from nominations to be made in the following manner:

(a) Except for initial Board members whose nomination process shall be conducted by the Secretary, the Board shall issue a call for nominations by January 10th of each year in which an election is to be held, or such other date as approved by the Secretary. The call shall include at a minimum the following information.

(1) A list of the vacancies for which nominations may be submitted and the qualifications for each position;

(2) The date by which the nominees shall be submitted to the Secretary for consideration to be in compliance with paragraph (f) of this section;

(3) A list of those States, by district, or organizations entitled to participate in the nomination process; and,

(4) The date, time, and location of any next scheduled meeting of the Board, national and State grower or sheller associations, and district conventions if any.

(b) Nominations for grower and alternate grower member positions that will become vacant shall be made by district convention in the district entitled to nominate. The following requirements shall apply:

(1) Notice of such convention shall be publicized by the Board to all growers within such district, and to the Secretary, at least ten days prior to said event. The notice shall have attached to it the call for nominations from the Board. Current Board grower members, supported by the Board and its staff, shall be responsible for convening and publicizing district conventions in their respective districts, except for the initial convention, which shall be called and conducted by a representative of the Secretary.

(2) All growers within the district may participate in the convention: Provided, That if a grower is engaged in the production of pecans in more than one State or district, the grower shall participate within the State or district in which the grower so elects in writing to the Board and such election shall remain controlling until revoked in writing to the Board.

(3) The district convention shall conduct the nomination process for the nominees in accordance with

procedures prescribed by the Department.

(4) There shall be no more than one member from any State in a district, except that the State of Georgia may have two growers from such State representing District 4.

(5) Each grower present shall have one vote for each grower position to be filled in the District.

(c) Nominations for sheller and sheller alternate positions that will become vacant shall be made by any sheller organization(s) recommended by the Board and approved by the Secretary. The following requirements shall apply:

(1) Notice of any such organization's nomination meeting shall be publicized to all shellers within the area (east or west of the Mississippi River), where one or more vacancies exist, and the Secretary, at least ten days prior to said event. The notice shall have attached to it the call for nominations from the Board. Current sheller members on the Board, supported by the Board and its staff, shall be responsible for arranging for and publicizing the meeting.

(2) All shellers within the area may participate in the nominations meeting: Provided, That if a sheller has shelling operations on both sides of the Mississippi River, the sheller participate within the area in which the sheller so elects in writing to the Board and such election shall remain controlling until revoked in writing to the Board.

(3) The sheller organization(s) shall conduct the nomination process for the nominees in accordance with procedures prescribed by the Department.

(4) Each sheller present shall have one vote for each sheller position to be filled in the applicable area (east or west of the Mississippi River).

(d) The Board shall nominate the importer member and the public member and their respective alternates. Growers shall nominate the first handler member and alternate. All shall be nominated in such manner as may be prescribed by the Secretary.

(e) There shall be two individuals nominated for each vacant position. Each nominee shall meet the qualifications set forth in the call.

(f) Except for the establishment of the initial Board, the nominations shall be certified by the Board and submitted to the Secretary no later than May 1 preceding the commencement of the term of office for Board membership, or such other date as approved by the Secretary.

(g) The Secretary may reject any nominee submitted. If there are insufficient nominees from which to appoint members to the Board as a result of the Secretary's rejecting such nominees, additional nominees shall be submitted to the Secretary in the same manner.

§ 1211.33 Term of office.

(a) The term of office of Board members and their alternates shall be three years, except that the members and alternates of the initial Board shall serve terms as follows: The two growers and their alternates from each of Districts 1 and 4, and the public member and alternate shall serve one-year initial terms; two growers and their alternates from District 3, two shellers and their alternates from east of the Mississippi River and the importer member and alternate shall serve two-year initial terms; and the two growers and their alternates from District 2, two shellers and their alternates from west of the Mississippi River, and the first handler member and alternate shall serve three-year initial terms.

(b) The term of office for the initial Board shall begin immediately following appointment by the Secretary. Time in the interim period, from appointment until the term begins pursuant to this section, shall not count towards the initial term of office. In subsequent years, the term of office shall begin on October 1 or such other period which may be approved by the Secretary.

(c) Board members and alternates shall serve during the term of office for which they are selected and have qualified, and until their successors are selected and have qualified.

(d) No member or alternate shall serve more than two successive terms: Except that those members and alternates serving initial terms of one year may serve two full succeeding three-year terms following the one-year initial term.

§ 1211.34 Acceptance.

Each person nominated for membership on the Board shall qualify by filing a written acceptance with the Secretary. Such written acceptance shall accompany the nominations list required by § 1211.32 of this part.

§ 1211.35 Vacancies.

(a) In the event any member of the Board ceases to be a member of the category of members from which the member was appointed to the Board, such position shall automatically become vacant.

(b) If a member of the Board consistently refuses to perform the duties of a member of the Board, or if a member of the Board engages in acts of dishonesty of willful misconduct, the Board may recommend to the Secretary that the member be removed from office. If the Secretary finds the recommendation of the Board shows adequate cause, the Secretary shall remove such member from office. Further, without recommendation of the Board, a member may be removed by the Secretary upon showing of adequate cause, if the Secretary determines that the person's continuing services would be detrimental to the purposes of the Act.

(c) To fill any vacancy caused by the failure of any person selected as a member of the Board to qualify, or in the event of the death, removal, resignation, or disqualification of any member, the alternate of that member shall automatically assume the position of said member. A replacement for said alternate shall be nominated and selected in the manner specified in § 1211.32 of this part. Should the positions of both a member and such member's alternate become vacant, successors for the unexpired terms of such member and alternate shall be nominated and selected in the manner specified in § 1211.32 of this part. Nomination and replacement shall not be required for any vacancy where the unexpired term of office is less than six months. In the event of failure to provide nominees for such vacancies the Secretary may appoint other eligible persons.

§ 1211.36 Procedure.

(a) Eight Board members, including alternates acting in place of members of the Board, shall constitute a quorum: Provided, That such alternates shall serve only when the member is absent from a meeting or is disqualified. Any action of the Board shall require the concurring votes of a majority of those present and voting. At assembled meetings, all votes shall be cast in person.

(b) In lieu of voting at a properly convened meeting, and when in the opinion of the chairperson of the Board such action is considered necessary, and for matters of an emergency nature when there is not enough time to call an assembled meeting, the Board may act upon a majority of concurring votes of its members cast by mail, telegraph, telephone, facsimile, or by other means of communication: Provided, That each member or alternate acting for a member receives an accurate, full, and substantially identical explanation of each proposition. Telephone votes shall be promptly confirmed in writing. All votes shall be recorded in the Board minutes.

§ 1211.37 Compensation and reimbursement.

Board members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses incurred by them only in the performance of their Board duties under this subpart.

§ 12211.38 Powers.

The Board shall have the following powers:

(a) To administer the provisions of this Plan in accordance with its terms and conditions;

(b) To recommend to the Secretary rules and regulations to effectuate the terms and conditions of this Plan;

(c) To receive, investigate, and report to the Secretary complaints of violations of this Plan;

(d) To recommend to the Secretary amendments to this Plan; and

(e) With the approval of the Secretary, to invest in risk-free, short-term, interest-bearing accounts, pending disbursement pursuant to a program or project, funds collected through assessments authorized under § 1211.51 of this part. The investment can only be in obligations of the United States or any agency thereof, if any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Income from any such invested funds may be used for any purpose for which the invested funds may be used.

§ 1211.39 Duties.

The Board shall, among other things, have the following duties:

(a) To meet not less than annually, organize, and select from among its members, a chairperson and such other officers as may be necessary; to select committees and subcommittees of Board members; to recommend for Department approval such rules and bylaws for the conduct of Board business as it may deem advisable; and it may establish special working committees that may include persons other than Board members, and reimburse the necessary and reasonable expenses and fees of such persons serving on such committees;

(b) To employ such individuals as it may deem necessary and to determine the compensation and define the duties of each; and to protect the handling of Board funds through fidelity bonds or any other form of bonding permitted by statute and/or approved by the Secretary;

(c) To prepare and submit for the Secretary's approval, at least 60 days prior to the beginning of each fiscal period, a recommended rate of assessment and a fiscal period budget of the anticipated income and expenses for the administration of this Plan, including the projected costs of all programs and projects;

(d) To develop programs and projects, which must be approved by the Secretary before becoming effective, and enter into contracts or agreements, with the approval of the Secretary, for the development and carrying out of programs or projects of research, promotion or information. The cost of such programs and projects will be paid with funds collected pursuant to this Plan;

(e) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the Board. Minutes of all meetings shall be promptly provided to the Secretary;

(f) To appoint and convene, from time to time, working committees drawn from growers, grower-shellers, first handlers, shellers, importers, and the public to assist in the development of research, promotion, industry information, and consumer information programs for pecans;

(g) To establish an interest bearing escrow account with a bank which is a member of the Federal Reserve System and to deposit into such account an amount equal to the product obtained by multiplying the total amount of assessments collected by the Board during the period prior to the initial referendum by 10 percent. If continuance of the Plan is favored by a majority voting in the initial referendum conducted under the Act, all funds in the escrow account shall be returned to the Board for use by the Board;

(h) To prepare and submit to the Secretary such reports as may be prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to the Board monthly, or at such times as prescribed by the Secretary. Monthly financial statements shall be submitted to the Department and shall include at least:

(1) A balance sheet, and

(2) An expense budget comparison showing expenditures during the month, year-to-date expenditures, and an unexpended budget. Upon request, a summary of checks issued by the Board is to be made available. Reports shall be submitted within 30 days after the end of each month.

(i) To cause the books of the Board to be audited by an independent certified public accountant at the end of each fiscal period, and at such other times as the Board or the Secretary may deem necessary. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part.

(j) To investigate violations of the Plan and report the results of such investigations to the Secretary for appropriate action to enforce the provisions of this Plan;

(k) To periodically prepare, make public, and make available to growers, grower-shellers, shellers, first handlers, importers, and the Secretary, reports of its activities, including an annual report which should be submitted to the Secretary within 90 days after the end of the fiscal period.

(l) To give the Secretary the same notification, written or oral, as provided to Board members concerning all conference calls and meetings, including executive, advisory, subcommittee, and other meetings related to Board matters, and to grant the Secretary access to all such calls and meetings;

(m) To act as intermediary between the Secretary and any grower, grower-sheller, sheller, first handler, or importer;

(n) To furnish the Secretary such information as the Secretary may request;

(o) To notify pecan growers, grower-shellers, shellers, first handlers, and importers of all Board meetings through press releases or other means;

(p) To develop and recommend such rules and regulations to the Secretary for approval as may be necessary for the development and execution of programs or projects to effectuate the declared purpose of the Act; and

(q) To follow the Department's equal opportunity/civil rights policies.

Research and Promotion

§ 1211.40. Policy and objectives.

It shall be the policy of the Board to carry out an effective, continuous, and coordinated program of pecan promotion, research, and industry and consumer information in order to:

(a) Strengthen pecans' competitive position in the marketplace;

(b) Maintain and expand existing domestic and foreign markets and uses for pecans; and

(c) Develop new or improved markets and uses for pecans.

It shall be the objective of the Board to carry out programs and projects which will provide maximum benefit to the entire pecan industry.

§ 1211.41 Programs and projects.

The Board shall receive and evaluate, or on its own initiative develop, and submit to the Secretary for approval any programs or projects authorized in this

section. Such programs or projects shall provide for:

(a) The establishment, issuance, effectuation and administration of appropriate programs or projects for industry and consumer information, advertising, and promotion of pecans designed to strengthen the position of the pecan industry in the marketplace and to maintain, develop, and expand markets for pecans and pecan products;

(b) The establishment and implementation of research and development projects and studies to the end that the acquisition of knowledge pertaining to pecans or their consumption and use may be encouraged or expanded, or to the end that the marketing and use of pecans may be encouraged, expanded, improved, or made more efficient: Provided, That quality control, grade standards, supply management programs or other programs that would otherwise limit the right of the individual pecan grower to produce pecans shall not be conducted under, or as a part of, this Plan;

(c) The development and expansion of pecan sales in foreign markets;

(d) A prohibition on advertising or on any program or project that makes any reference to a variety, brand, trade name, state or regional identification of pecans or uses false or unwarranted claims on behalf of pecans or false or unwarranted statements with respect to the attributes or use of another product; but this does not preclude tie-ins with other non-pecan branded or non-branded products; and

(e) Periodic evaluation by the Board of each program or project authorized under this Plan to insure that each program or project contributes to an effective and coordinated program of research, education, and promotion and at least an annual submission of such evaluation to the Secretary. If the Board or the Secretary finds that a program or project does not further the purpose of the Act, then the Board shall terminate such program or project.

§ 1211.42 Contracts.

To ensure efficient use of funds, the Board, with the approval of the Secretary, may enter into contracts or make agreements with persons, including grower and grower-sheller organizations, for the development and submission of programs or projects authorized by the Plan and for carrying out such programs or projects and pay for the costs of such contracts or agreements with funds collected pursuant to §§ 1211.51 or 1211.50(g). Requirements include the following:

(a) Contractors shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(b) Plans and projects shall only become effective upon approval of the Secretary;

(c) Contractors shall keep accurate records of all transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require;

(d) Subcontractors who enter into contracts or agreements with Board contractors and who receive or otherwise utilize funds allocated by the Board shall be subject to the same provisions as the contractors;

(e) The records of contractors and subcontractors shall be subject to audit by the Secretary.

Expenses and Assessments

§ 1211.50 Budget and expenses.

(a) At least 60 days prior to the beginning of each fiscal period, or such other period as may be determined thereafter, with the approval of the Secretary, the Board shall prepare and recommend a budget on a fiscal period basis of its anticipated income and expenses in the administration of this Plan, including probable costs of research, promotion, and industry and consumer information. The Board shall also recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in § 1211.56 of this part.

(b) Each budget shall include:

(1) A statement of objectives and strategy for each program or project, including reasons for significant changes from the preceding budget period,

(2) A summary of anticipated revenue, with comparative data for at least the preceding year,

(3) A summary of proposed expenditures by each program or project, with comparative data for at least the preceding year, and

(4) Staff and administrative expense breakdown with comparative data for at least the preceding year. Comparative data reporting will not apply to the initial budget.

(c) The Board is authorized to incur such expenses for research, promotion, and industry and consumer information concerning pecans, such other reasonable expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary and those costs incurred by the Department specified in paragraph (d) of this section. The funds to cover such expenses shall be paid from assessments collected pursuant to § 1211.51 of this part. Expenses for programs and projects may also be paid with funds received pursuant to paragraph (g) of this section.

(d) The Board shall reimburse the Department for all expenses incurred in implementing and administering the Plan, except for salaries of Federal Government employees incurred in conducting any referendum. The Board shall pay those costs incurred by the Department for the conduct of Department duties under the Plan as determined periodically by the Secretary. The Department will bill the Board monthly and payment shall be due promptly after the billing of such costs.

(e) The Board may accept voluntary contributions but these shall only be used to pay expenses incurred in the conduct of programs and projects. However, such contributions shall only be accepted from persons not subject to assessments under this Plan: Provided, That such contributions shall be free from any encumbrances by the donor and the Board shall retain complete control of their use.

(f) Any amendment(s) or addition(s) to an approved budget shall be approved by the Secretary, including shifting of funds from one program or project to another, except such shifts that are consistent with governing bylaws need not have prior approval by the Secretary.

(g) Effective 3 years after the date of the establishment of the Board, the Board shall not spend in excess of 20 percent of the assessments collected under section 1912 of the Act for administration of the Board.

§ 1211.51 Assessments.

(a) General. During the effective period of this Plan, but not until an initial assessment rate is approved by the Secretary, assessments shall be levied on all pecans produced in, and all pecans imported into, the United States and marketed, except as otherwise provided in this part pursuant to § 1911(b) of the Act. No more than one assessment on a first handler, grower-sheller or importer shall be made on any lot of pecans.

(b) Rates. Assessment rates shall not exceed a maximum of one-half cent per pound for in-shell pecans during the period prior to the initial referendum required by § 1916(a) of the Act and may be up to a maximum of two cents per

pound thereafter, as recommended by the Board and approved by the Secretary. The rate of assessment of shelled pecans shall be twice the rate established for in-shell pecans.

(c) Time of payment. The assessment shall become due at the time the pecans are first handled, or entered, or withdrawn, for consumption, into the United States.

(d) Responsibility for payment and due dates.

(1) Except as provided in paragraphs (d) (2) and (3) of this paragraph, the first handler and grower-sheller shall be responsible for payment of assessments to the Board on all pecans handled.

(i) Such assessments shall be deducted from the payment made to a grower for all pecans sold to the first handler.

(ii) All such assessments shall be remitted to the Board no later than the last day of the month following the month that the pecans being assessed were purchased by or marketed by the handler. To avoid late payment charges, the assessments must be mailed to the Board and postmarked by such last day.

(2) Grower-shellers shall pay to the Board the assessment on the pecans for which they act as first handler.

(i) Each first handler who is a grower-sheller shall remit such assessments to the Board, to the extent practicable, in payments of one-third of the total annual amount of such assessment due to the Board on January 31, March 31, and May 10, or such dates as may be recommended by the Board and approved by the Secretary, during the fiscal year that the pecans being assessed were harvested. To avoid late payment charges, the assessments must be mailed to the Board and postmarked by the required due dates.

(3) Importers of pecans shall pay the assessment to the Board through the Customs Service. The Customs Service will collect assessments on all pecans imported at the time of entry, or withdrawal for consumption, and forward such assessments as per agreement between the Customs Service and the Department.

(e) Remittance. First handler and grower-sheller remittance shall be by check, draft, or money order payable to the Pecan Marketing Board and shall be accompanied by a report specified in § 1211.60.

(f) First handler prepayment of assessments.

(1) In lieu of the assessment payment and reporting requirements of this section and § 1211.60, the Board may permit first handlers to make advance payment of their total estimated assessments for the crop year to the Board prior to their actual determination of assessable pecans. If any such estimate appears unreasonably low, the Board may request additional evidence from that first handler to justify such estimate. If, after reviewing any additional evidence, the Board concludes that such estimate is not reasonable, it shall notify that handler that the handler may no longer prepay such assessment, unless a reasonable estimate is submitted. Any handler whose prepayment is consistently and significantly under the final assessment due shall be subject to provisions of paragraph (g) of this section on the deficient amounts. The Board shall not be obligated to pay interest on any advance payment.

(2) First handlers prepaying assessments shall provide a final annual report of actual handling. First handlers shall remit any unpaid assessments not later than the last day of the month following the last month the first handler purchased or marketed pecans or at the end of each fiscal period if such first handler purchases or markets assessable pecans on a year-round basis.

(3) First handlers prepaying assessments shall, after filing a final annual report, receive a reimbursement of any overpayment of assessments.

(4) First handlers prepaying assessments shall, at the request of the Board, provide the Board with a handling report on any and all growers for whom the first handler has provided handling services but has not yet filed a handling report with the Board.

(5) Specific requirements, instructions, and forms for making such advance payments shall be provided by the Board on request.

(g) Late payment charges and interest.

(1) A late payment charge shall be imposed on any first handler or grower-sheller who fails to make timely remittance to the Board of the total assessments. Such late payment shall be imposed on any assessments not received before the tenth day after the assessment is due. This one-time late payment charge shall be ten (10) percent of the assessments due before interest charges have accrued.

(2) In addition to the late payment charge, one and one-half percent per month interest on the outstanding balance, including the late payment charge and any accrued interest, will be added to:

(i) Any first handler accounts delinquent beyond 30 days after the last day of the month following the month that the assessments became due; and

(ii) Any grower-sheller accounts delinquent beyond 30 days after the assessments became due.

Such interest will continue monthly until the outstanding balance is paid to the Board.

(h) Special state assessment.

(1) The Board shall, subject to approval of the Secretary and if authorized by State law and requested by such State's pecan marketing board or commission, collect a one-quarter cent special assessment for in-shell pecans, and a one-half cent special assessment for shelled pecans to be remitted by the Board to such State pecan marketing board for use by the State board in funding research projects to promote pecans pursuant to State law.

(2) The Board shall, upon receipt of such assessments, remit such assessments to the State, within a time period mutually agreed upon between the State and the Board and approved by the Secretary.

(3) In the collection of such State assessments, neither the Board nor the Secretary shall in any manner enforce the collection or remittance of any such payment of such State assessments or investigate nonpayment of such State assessments, except to provide the State board with the names of growers from whom such assessments were and were not collected and the respective amounts of assessments that were and were not collected.

(4) The Secretary may establish such procedures or issue such regulations as may be necessary to carry out the provisions of this subsection.

(i) Payment through cooperating agency. The Board may enter into agreements, subject to approval of the Secretary, authorizing other organizations, such as a State pecan board, to collect assessments in its behalf. In any State or area in which the Board has entered into such an agreement, the first handler and grower-sheller shall pay the assessment to such agency in the time and manner, and with such identifying information as specified in such agreement. Such an agreement shall not provide any cooperating agency with authority to collect confidential information from growers. To qualify, the cooperating agency must on its own accord have access to all information required by the Board for collection purposes. If the Board requires further evidence of payment than provided by the cooperating agency, it may acquire such evidence from individual first handlers and grower-shellers. All such agreements are subject to the

requirements of the Act, Plan, and all applicable rules and regulations under the Act and the Plan.

§ 1211.52 Failure to remit and report.

Any first handler, grower-sheller, or importer who fails to submit remittances and reports as required by this part shall be subject to appropriate action by the Board which may include one or more of the following actions:

(a) Audit of the first handler's, grower-sheller's, or importer's books and records to determine the amount owed the Board.

(b) Establishment of an escrow account for the deposit of assessments collected. Frequency and schedule of deposits and withdrawals from the escrow account shall be determined by the Board with the approval of the Secretary.

(c) Referral to the Secretary for appropriate enforcement action.

§ 1211.53 Determination of first handler.

The following examples are provided to aid in the identification of first handlers:

(a) Grower sells pecans of own production to a handler. The handler is the first handler and is responsible for payment of the assessments.

(b) Grower sells pecans of that grower's own production from the orchard, roadside stand, or storage to a consumer or other buyer who is not a handler of pecans. The grower is the first handler and is responsible for payment of the assessments.

(c) Grower sells pecans to a sheller. The sheller is the first handler and is responsible for payment of the assessment.

(d) Grower delivers in-shell pecans to a sheller for shelling and the sheller returns the shelled pecans to the grower who sells the pecans to a consumer or other buyer who is not a handler of pecans. The grower is the first handler and is responsible for payment of the assessments.

(e) Grower delivers in-shell pecans to a sheller for shelling and the sheller returns the shelled pecans to the grower who sells the pecans to a handler. The handler is the first handler and is responsible for payment of the assessments.

(f) Handler buys pecans from a grower and sells the pecans to another handler. The handler who buys the pecans from the grower is the first handler and is responsible for payment of the assessments.

(g) Grower supplies pecans to a cooperative marketing association which sells the pecans and makes an accounting to the grower, or pays the proceeds of the sale to the grower. The cooperative marketing association becomes the first handler and is responsible for payment of the assessments.

(h) Grower sells pecans to a processor. The processor is the first handler and is responsible for payment of the assessments.

(i) Broker receives pecans from a grower and sells such pecans in the broker's company name. The broker is the first handler, regardless of whether the broker took title to such pecans, and is responsible for payment of the assessments.

§ 1211.54 Authority to borrow.

The Board is authorized to borrow funds, as approved by the Secretary, for capital outlays and start-up costs including the payment of administrative expenses subject to the same fiscal, budget, and audit controls as other funds of the Board.

§ 1211.55 Refunds.

(a) Subject to the provisions of this section, any grower, grower-sheller, or importer shall have the right to personally demand and receive from the Board a one-time refund of assessments paid by or on behalf of such grower, grower-sheller, or importer during the period beginning on the effective date of this Plan and ending on the date the initial referendum specified in the Act is conducted: Provided, That:

(1) Such grower, grower-sheller, or importer makes application and provides proof of payment as required in paragraphs (b), (c), and (d) of this section;

(2) Such grower, grower-sheller, or importer does not support the program established under this Plan; and

(3) This Plan is not approved pursuant to the initial referendum conducted under § 1916(a) of the Act.

(b) Application form. A grower, grower-sheller, or importer shall obtain a refund application form from the Board by written request which shall bear the grower's, grower-sheller's or importer's signature. For partnerships, corporations, associations, or other business entities, a partner or an officer of the entity must sign the request and indicate his or her title.

(c) Submission of refund application to the Board. Any grower, grower-sheller, or importer requesting a refund shall mail the refund application on the prescribed form to the Board. Such application shall be considered if received prior to the conduct of the initial referendum. The refund application shall show the following:

(1) Grower's, grower-sheller's, or importer's name and address;

(2) First handler's or handlers' name(s) and address(es);

(3) Number of pounds of pecans on which refund is requested;

(4) Total amount to be refunded:

(5) Proof of payment as described below: and

(6) Grower's, grower-sheller's or importer's signature.

Where more than one grower, grower-sheller, or importer shared in the assessment payment, the refund application shall show, in addition to other required information, the names, addresses and proportionate shares of such growers, grower-shellers, or importers and the signature of each. Any request for refund or assessments paid may be in part or total.

(d) Proof of payment of assessment. Evidence of payment of assessments satisfactory to the Board, such as the receipt or accounting given to the grower or importer by the collecting person or a copy thereof, or in the case of a grower-sheller the handling report or a copy thereof, shall accompany the grower's, grower-sheller's or importer's refund application. Evidence submitted with refund applications shall not be returned to the applicant.

(e) Payment of refund.

(1) If the initial referendum required by section 1916(a) of the Act shows that a majority of those voting do not favor continuation of this Plan, the Board shall pay refund requests within 90 days of the date the results of the referendum are released by the Secretary. Should the amount of funds in the account required by section 1912(f) of the Act not be sufficient to refund the total amount of assessments demanded by eligible growers, grower-shellers, or importers, the Board shall prorate the amount of such refunds among all eligible growers, grower-shellers, and importers who demand such refund. Names of individuals obtaining refunds shall be kept confidential and made available only to the Secretary and the Board employees essential to refund processing.

(2) No refunds shall be paid to any grower, grower-sheller, or importer making demand for such refund if this Plan is approved by a majority of those voting in the initial referendum required by section 1916(a) of the Act, and all funds in the escrow account established pursuant to section 1912(f) of the Act shall be returned to the Board for use by the Board in funding approved programs and projects.

§ 1211.56 Operating reserve.

The Board may establish an operating monetary reserve and carry over to subsequent fiscal periods excess funds in a reserve so established: Provided, That funds in the reserve shall not exceed approximately two fiscal periods' expenses. Such reserve funds may be used to defray any expenses authorized under this subpart.

Reports, Books, and Records

§ 1211.60 Reports.

(a) Each first handler, grower-sheller, and importer who is subject to this Plan shall be required to report to the Board, at such times and in such manner as is prescribed by the regulations, such information as may be considered necessary by the Secretary for the Board to perform its duties and to ensure compliance with the Act and with this Part.

(b) Each first handler and grower-sheller shall maintain a separate record with respect to each grower for whom 5,000 pounds or more pecans were handled in a single lot.

(c) First handlers shall file with the Board a report for each month that pecans were handled, along with any assessment payments due under § 1211.51(d)(1) of this part, and grower-shellers shall file with the Board a report, along with the assessment payment, by the payment due dates provided in paragraph (d)(2)(ii) of § 1211.51 of this part. All such reports shall contain at least the following information:

(1) The first handler's or grower-sheller's name, address, and telephone number;

(2) Date of report (which is also the date of any payment to the Board);

(3) Period covered by the report;

(4) Total quantity of pecans handled during the reporting period;

(5) Total quantity of pecans from the reporting period for which assessments are remitted;

(6) For first handlers only, the total quantity of pecans from previous reporting periods for which assessments are remitted;

(7) Date of last report remitting assessments to the Board;

(8) Listing of all persons for whom the first handler or grower-sheller handled pecans, their addresses, pounds handled, and total assessments remitted for each grower. In lieu of such a list, the first handler or grower-sheller may substitute copies of settlement sheets given to each person or computer generated reports, provided such settlement sheets or computer reports contain all the information listed above; and

(9) For first handlers only, a listing of all persons, including the reporting date, for whom the first handler previously reported but for whom assessment are remitted with the current report. In lieu of such a list, the first handler may substitute a copy of the applicable handler's report appropriately marked to identify those persons for whom assessments are currently being remitted.

(d) The words "final report" shall be shown on the last report at the close of the first handler's and grower-sheller's marketing season or at the end of each fiscal period if such first handler or grower-sheller markets pecans on a year-round basis.

(e) Each importer shall file with the Board, no later than the last day of the month following the month that the assessments became due, a monthly report containing at least the following information:

(1) Importer's name, address, and telephone number;

(2) Quantity of pecans entered, or withdrawn, for consumption into the United States;

(3) Amount of assessments paid on pecans entered, or withdrawn, for consumption into the United States to the Customs Service at the time of entry, or withdrawal, for consumption and the port or ports of entry; and

(4) Amount of any pecans on which the assessment was not paid to the Customs Service at the time of entry, or withdrawal, for consumption into the United States and the port or ports of entry.

(f) In the event of a first handler's grower-sheller's, or importer's death, bankruptcy, receivership, or incapacity to act, the representative of the first handler, grower-sheller, or importer or such individual's estate, shall be considered the first handler, grower-sheller, or importer for the purposes of this part.

§ 1211.61 Books and records.

Each first handler, grower-sheller, and importer subject to this Plan shall maintain, and during normal business hours make available for inspection and copying by authorized employees of the Board or Secretary, such books and records as are necessary to carry out the provisions of this Plan and the regulations issued thereunder, including such records as are appropriate and necessary to verify all reports required under this subpart. All such books and records and reports required by this subpart shall be maintained and retained for at least two years beyond the fiscal period of their applicability.

§ 1211.62 Confidential treatment of books, records, and reports.

(a) Except as otherwise provided in the Act and this subpart, all information obtained from the books, records, or reports required to be maintained shall be kept confidential and shall not be disclosed to the public or Board members by any person. Only such information as the Secretary deems relevant shall be disclosed to the public and then only in a suit or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any other officer of the United States is a party, and involving this Plan: Except that nothing in this subpart shall be deemed to prohibit:

(1) Issuance of general statements based on the reports of a number of first handlers, grower-shellers, or importers subject to this Plan if such statements do not identify the information furnished by any person; or

(2) Publication by direction of the Secretary of the name of any person violating this Plan together with a statement of the particular provisions of this Plan violated by such person; or

(3) Release of information obtained under this subpart to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular activity for which the information is sought.

(b) Any disclosure of confidential information by any Board member or employee of the Board, except as required by law or allowed by the Act, shall be considered willful misconduct and a violation of the Act.

Miscellaneous

§ 1211.70 Right of the Secretary.

All fiscal matters, programs or projects, by-laws, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1211.71 Personal liability.

No member or employee of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgement, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty or willful misconduct.

§ 1211.72 Influencing government action.

The Board shall not engage in any action to, nor shall any funds received by the Board under this Plan be used to influence legislation or governmental action, other than recommending to the Secretary amendments to this Plan.

§ 1211.73 Suspension or termination.

(a) Whenever the Secretary finds that this Plan or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, the Secretary shall terminate or suspend the operation of this Plan or such provision thereof.

(b) After the initial referendum, the Secretary may conduct a referendum at any time, and shall hold a referendum on request of the Board or of 10 percent or more of the total number of pecan growers, grower-shellers, and importers, to determine if pecan growers, grower-shellers, and importers favor termination or suspension of this Plan. The Secretary shall terminate or suspend this Plan whenever the Secretary determines that its termination or suspension is favored by a majority of the pecan growers, grower-shellers, and importers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production or importation of pecans. Any such referendum shall be conducted at county Agricultural Stabilization and Conservation Service offices.

(c) If, as a result of any referendum conducted under the Act, the Secretary determines that suspension or termination of this Plan is favored by a majority of the growers, grower-shellers, and importers voting in the referendum, the Secretary shall:

(1) Within six months after making such determination, suspend or terminate, as the case may be, collection of assessments under this Plan; and

(2) As soon as practicable, suspend or terminate, as the case may be, activities under this Plan in an orderly manner.

§ 1211.74 Proceedings after termination.

(a) Upon the termination of this Plan, the Board shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all funds and property then in possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into by it pursuant to § 1211.42 of this part;

(3) From time-to-time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to person or persons as the Secretary may direct; and

(4) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person or persons full title and right to all the funds, property, and claims vested in the Board or the trustees pursuant to this section.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this section shall be subject to the same obligations imposed upon the Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Department to be used, to the extent practicable in the interest of continuing one or more of the pecan promotion, research, consumer or industry information programs authorized under the Plan or be disposed of in such manner as the Secretary may determine to be appropriate.

§ 1211.75 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this Plan or any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this Plan or any regulation issued thereunder; or

(b) Release or extinguish any violation of this Plan or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary, or of any other person with respect to any such violation.

§ 1211.76 Separability.

If any provision of this Plan is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Plan or applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1211.77 Patents, copyrights, inventions, product formulations and publications.

Any patents, copyrights, inventions, product formulations, or publications developed through the use of funds collected under the provisions of this Plan shall be the property of the United States Government as represented by the Board. Funds generated by such patents, copyrights, inventions, product formulations, or publications shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board. Upon termination of this part, § 1211.74 of this part shall apply to determine the disposition of all such property.

§ 1211.78 OMB control numbers.

The control number assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511, is OMB number 0581-0093, except Board member nominee information sheets are assigned OMB number 0505-0001.

Dated: April 27, 1992.

Daniel Haley,

Administrator.

[FR Doc. 92-10062 Filed 4-30-92; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Petroleum Refining Industry

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is revising its size standard for the Petroleum Refining Industry, Standard Industrial Classification (SIC) code 2911. This revision increases the barrels per day (BPD) capacity limit to 75,000 BPD from 50,000 BPD. The 1,500-employee component of the current standard remains in effect. This action is being taken to better define a small business in this industry. Its intent is to indicate which firms in the industry are eligible for SBA's assistance to small businesses.

EFFECTIVE DATE: May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Norman S. Salenger, Economist, Size Standards Staff, Tel: (202) 205-6618.

SUPPLEMENTARY INFORMATION: SBA's concern about changes that have occurred in the Petroleum Refining Industry over the last 10 years, and

about anticipated future pressures on small refiners, led to two proposals to change the present definition of a small refiner, or the size standard. For a petroleum refiner to be considered a small business under the currently promulgated size standard, it must have 1,500 employees or less and a total refining capacity of 50,000 barrels per day (BPD) or less.

On May 3, 1991, the SBA published in the **Federal Register** (56 FR 20382) a notice of proposed rulemaking to change the size standard for the Petroleum Refining Industry (SIC code 2911) to a single criterion of 1,500 employees. By eliminating the refining capacity component of the size standard, the SBA intended to simplify the size standard and make it compatible with the single size criterion used for all other industries. In addition, this change was to allow refining firms now slightly below the capacity limit to expand their refining facilities without losing their small business status. Comments received on that proposal overwhelmingly argued to retain a barrels per day capacity measure as part of the size standard. Those comments led SBA to publish a second notice to elicit comments on increasing the capacity limitation.

On January 7, 1992, the SBA published in the **Federal Register** (57 FR 541) a notice of intent to revise the size standard for the Petroleum Refining Industry. This notice advised the public that the SBA was considering increasing the barrels per day component to 75,000 BPD from 50,000 BPD and retaining the 1,500-employee component. A 30-day period was allowed for the public to comment on the increase to the capacity component.

SBA premised its reasoning for the January 7, 1992, notice on several facts determined through SBA's analysis of the industry and highlighted by public comment to the May 3 proposed rule. Besides being within the industry's concept of a small refiner and facilitating moderate expansion by currently defined small refiners, a 75,000 BPD level is believed by SBA to be supported by the industry's structure. Firms under this level are primarily operating as refiners rather than substantially as retail marketers or as petroleum explorers who own a refining operation. Firms with over 75,000 BPD refining capacity are generally integrated into petroleum activities other than refining. A 75,000 BPD level would allow a number of acquisition or merger opportunities among currently defined small refiners without loss of their small business status. Finally, SBA believes that such a combination may help to alleviate cost pressures on small businesses of complying with environmental regulations.

SBA received 22 comments to the January 7, 1992 notice. Comments to this notice were mixed on the question of whether or not to increase the barrels per day capacity limitation. Four firms, three of them presently small, and a trade association with a membership of 17 small refiners favored an increase to 75,000 BPD. Also, a major Federal purchaser of petroleum products commented that it had no objection to the increase. One argument made in support of an increase noted that in meeting the environmental compliance requirements firms that are currently small may wish to expand capacity to a more efficient size to defray the heavy costs of capital equipment. Also in support of an increase, the comments argued that a 75,000 BPD standard would allow small firms to become acquisition candidates by other small firms while retaining their small business status.

Two large refining firms objected to the change based on an assumption that the increased capacity definition would be used to exempt more firms from environmental requirements; however, one firm explicitly said that it had no objections if the use could be restricted to SBA programs. SBA responds to this comment by clarifying that its size standards are set for determining eligibility of firms for SBA's small business programs and no other purpose. As such, adoption of SBA's size standards for other government purposes, such as environmental regulations, is at the discretion of the issuing agency and should be used only when the SBA's size standards are considered to be at a level appropriate for their purpose.

Three comments supported an increase in the capacity level greater than proposed, two to 100,000 BPD and one to 175,000 BPD. One of these comments was from a firm that recently expanded beyond the 50,000 BPD limit and the other from a firm that would obtain small business status if its position was adopted. Both argued that economies of scale are at 100,000 BPD. Two commenters said that a size standard higher than 75,000 BPD is needed to more effectively recover the costs of investments necessary to comply with environmental requirements and one firm pointed out the need to recover investment costs to meet new specifications for military jet fuel. One comment also argued that since the industry tends to consider that a refiner in excess of 100,000 BPD is not a small refiner, SBA should adopt a 100,000 BPD for its size standard.

SBA does not see a need to increase the capacity component above 75,000 BPD. Although there are slight economies of scale at 100,000 BPD as compared to 75,000 BPD, firms between these levels have demonstrated their ability to survive in their market. In the decade of the 1980's the number of operable refineries declined by 38 percent. Those between 50,001 and 100,000 BPD declined only 16 percent as compared to those up to 50,000 BPD which declined 52 percent. SBA also considered that firms of all sizes will need to invest to meet environmental requirements and military jet fuel requirements (for firms competing in that market) and firms in excess of a 75,000 BPD capacity are believed to have access to financial markets. Furthermore, industry trends since 1975 justify an increase in the capacity component, but not to double the current size standard, as would be the case at 100,000 BPD.

Seven firms, three large firms and four small firms, opposed any change from the current capacity component. Two large firms argued that the current limit assists the "bona fide" small refiner. One of these firms also stated that large refiners were the most efficient segment of the industry and an increased capacity definition would result in a higher percentage of Federal procurements going to small business causing large refiners to lose sales and the public to pay higher prices for the product. The other large firm said that those additional firms becoming eligible as small businesses are successful in their markets and to extend small business benefits to them would be unfair to their competitors, whether large or small. Two of the small firms which opposed the change argued that they would be forced to compete with additional firms several times their size. The other two small refiners said that they badly needed Federal contracts reserved for small business to survive and at a 75,000 BPD capacity standard they will face additional small business competition from a recently expanded firm.

The arguments of these seven firms have been carefully considered by SBA. Under this rule the only immediate impact of an increase to the capacity component of 75,000 BPD will be to restore the small business status of two firms that recently had undergone a moderate expansion. Thus, the competition among small firms would be

similar to what existed in the recent past.

Another industry association commenting on the notice opposed an increase on the basis that more small refiners would qualify for special treatment under Government programs and it desired that all refiners be treated uniformly and the "market be allowed to function." However, under any size standard some firms will be eligible for small business programs. This rule merely restores the small business share that existed in the recent past.

The remaining four comments suggested other alternatives. For example, one wanted no limit on capacity, retaining a 1,500-employee standard. Another wanted no limit on employees with a capacity standard of 100,000 BPD. A third had no objection to a 75,000 BPD capacity definition if it applied to each refinery of a multirefinery firm. The fourth, a small refinery owned by a large firm in another industry, wanted the employee-component of the size standard eliminated.

Presently, the SBA counts all affiliates of a firm for size purposes. Under two of these suggestions, this affiliation rule would be eliminated for petroleum refiners. The affiliation rule is intended to prevent smaller entities that are part of large organizations from qualifying as small business. SBA has no intention of relaxing this rule. SBA also rejected the other two recommendations since the need for a dual criteria size standard of both capacity and employees was recognized by SBA through the rulemaking process to be a better measure of size for petroleum refiners than a single measure.

SBA's analysis of the Petroleum Refining Industry and public comments to two **Federal Register** notices has led it to the conclusion that a moderate increase in the barrel per day component of the size standard is warranted at this time. Since the current size standard was established in 1975, the number of small refiners as well as their share of the industry's refining capacity have steadily diminished. Since 1975, most refineries with less than a 10,000 BPD refining capacity and almost half of the refineries with between 10,000 BPD and 50,000 BPD capacity are no longer operating. During this 16-year period the trend has been an increase in refineries with over 100,000 BPD refining capacity. In 1975 small refiners accounted for 7.8 percent of the U.S. refining capacity while by 1989, this share had decreased to 6.7 percent. New environmental compliance requirements may further diminish the small business share of industry capacity. A heavy investment is expected to be needed to change refining processing equipment and some small firms may not be able to meet the investment requirements.

Although SBA received more comments opposed to an increase to the size standard than supporting an increase, changes in the structure of the petroleum industry discussed above indicate a new definition of a small refiner is appropriate. SBA believes, based on its analysis and comments arguing in favor of a change, refiners with refining capacity between 50,000 BPD and 75,000 BPD are small businesses in this industry. Accordingly, they should also be eligible for small business assistance through SBA's programs.

Compliance With Executive Orders 12291, 12612, and 12778, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Paperwork Reduction Act, 44 U.S.C., Chapter 35

SBA has determined that this rule would not constitute a major rule for the purposes of Executive Order 12291 because the annual economic effect would not exceed $100 million. This rule would not change the amount of refined petroleum purchased by the Federal government. Since there is an established market price for these products, total Federal procurement dollars are expected to remain the same. SBA recognizes that this rule may result in a few firms receiving Federal contract awards as a small business that they would not have otherwise received such contracts. However, it is unlikely that the net effect of contract dollars shifted by this rule to redefined small businesses would exceed $100 million dollars. There is no expected impact on SBA loan programs from this rule since SBA's loan limits of $750,000 are far below the financial needs of firms at the sizes affected by this rule. In both FY 1988 and FY 1989, SBA made less than $1 million in loans to firms in the Petroleum Refining Industry.

SBA certifies that this rule will not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

SBA certifies that this rule will not add any new reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C., Chapter 35.

For purposes of compliance with the Regulatory Flexibility Act, 5 U.S.C., 601 et seq. this rule would not have a significant economic effect on a substantial number of small entities for the same reasons that it is not considered to be a major rule.

For purposes of E.O. 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

This rule is effective on the date of publication under the authority of sections 553(d)(1) and 553(d)(3) of the Administrative Procedure Act (APA). SBA believes there is good cause to make the rule effective immediately rather than 30 days after publication in the **Federal Register** as required by the APA. Federal procurements of petroleum products are made on an infrequent basis and businesses that could benefit from this rule should have the opportunity to compete on those procurements as a small business. SBA is publishing this rule immediately to effect procurements that may be available at the time of publication.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loans programs—business, Small business.

Accordingly, part 121 of 13 CFR is amended as follows:

PART 121—[AMENDED]

(1) The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a) and 644(c).

(2) In § 121.601, the footnotes following the Standard Industrial Classification Table, the first two sentences of footnote 5 are revised to read as follows:

§ 121.601 [Amended]

[5] SIC code 2911: For the purposes of Government procurement, the firm may not have more than 1,500 employees nor may it have more than 75,000 barrels per day capacity. This capacity may be measured in terms of either crude oil or bona fide feedstocks or both, but the sum total of the various petroleum-based inputs into the process may not exceed 75,000 barrels. * * * * * * * * * *

§ 121.1010 [Amended]

(3) Section 121.1010(c) is amended by removing the words "* * * 50,000 barrels per day * * *" and inserting "* * * 75,000 barrels per day * * *."

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Patricia Saiki,

Administrator, U.S. Small Business Administration.

[FR Doc. 92-10221 Filed 4-28-92; 12:29 p.m.]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 26853; Amdt. No. 1489]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, thier complex nature, and the need for a special format make their verbatim publication in the Federal **Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC on April 24, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs;

§ 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective June 25, 1992*

Sitka, AK—Sitka, LDA/DME RWY 11, Amdt. 10
El Dorado, AR—Goodwin Field, LOC RWY 22, Amdt. 7
Mena, AR—Mena Intermountain Muncipal, VOR/DME–A, Amdt. 8
Mena, AR—Mena Intermountain Municipal NDB–B, Amdt. 6
Fresno, CA—Fresno Air Terminal, ILS RWY 29R, Amdt. 33
Atlanta, GA—DeKalb-Peachtree, VOR/DME RWY 20L, Amdt. 1
Atlanta, GA—DeKalb-Peachtree, VOR/DME RWY 27, Amdt. 1
Atlanta, GA—DeKalb-Peachtree, ILS RWY 20L, Amdt. 7
Atlanta, GA—The William B. Hartsfield Atlanta Intl, ILS RWY 26R, Amdt. 2
Paris, IL—Edgar County, VOR/DME–A, Amdt. 6
Paris, IL—Edgar County, NDB RWY 27, Amdt. 8
Great Bend, KS—Great Bend Muni, LOC RWY 35, Amdt. 3
Great Bend, KS—Great Bend Muni, NDB RWY 35, Amdt. 1
Great Bend, KS—Great Bend Muni, NDB–A, Amdt. 4
Hays, KS—Hays Muni, VOR RWY 26, Amdt. 3
Hays, KS—Hays Muni, VOR RWY 34, Amdt. 5
Hays, KS—Hays Muni, VOR/DME RWY 16, Amdt. 3
Hays, KS—Hays Muni, VOR/DME RWY 34, Amdt. 2
Hays, KS—Hays Muni, LOC RWY 34, Amdt. 2
Hays, KS—Hays Muni, NDB RWY 34, Amdt. 2
Hays, KS—Hays Muni, RNAV RWY 16, Amdt. 3, CANCELLED
Mayfield, KY—Mayfield Graves County, VOR/DME–A, Amdt. 6
Mayfield, KY—Mayfield Graves County, NDB RWY 36, Amdt. 1
Mayfield, KY—Mayfield Graves County, VOR/DME RNAV RWY 18, Amdt. 2
Monroe, LA—Monroe Regional, ILS RWY 22, Amdt. 3
Grayslake, IL—Campbell, VOR–A, Amdt. 4
Greenwood/Wonder Lake, IL—Galt, VOR–A, Amdt. 9
Alma, MI—Gratiot Community, SDF RWY 9, Amdt. 6
Alma, MI—Gratiot Community, NDB RWY 9, Amdt. 5
Alma, MI—Gratiot Community, VOR/DME RNAV RWY 27, Amdt. 6
Gaylord, MI—Otsego County, VOR RWY 9, Amdt. 8
Gaylord, MI—Otsego County, VOR RWY 27, Amdt. 8
Gaylord, MI—Otsego County, NDB RWY 9, Amdt. 10
Grand Haven, MI—Grand Haven Meml Airpark, VOR–A, Amdt. 15
Grand Haven, MI—Grand Haven Meml Airpark, VOR/DME RNAV RWY 27, Amdt. 5
Mackinac Island, MI—Mackinac Island, VOR/DME–A, Amdt. 8
Beatrice, NE—Beatrice Muni, VOR RWY 13, Amdt. 14
Beatrice, NE—Beatrice Muni, VOR RWY 35, Amdt. 5
Beatrice, NE—Beatrice Muni, NDB RWY 13, Amdt. 7
Beatrice, NE—Beatrice Muni, NDB–A, Amdt. 2
Caldwell, NJ—Essex County, LOC RWY 22, Amdt. 1
Newark, NJ—Newark Intl, ILS RWY 4L, Amdt. 11
Ithaca, NY—Tompkins County, VOR RWY 32, Orig.
Akron, OH—Akron Fulton Intl., LOC RWY 25, Amdt. 12
Akron, OH—Akron Fulton Intl., NDB RWY 25, Amdt. 12
Beach City, OH—Beach City, VOR–A, Amdt. 1
Cadiz, OH—Harrison County, NDB RWY 13, Amdt. 4
Coshocton, OH—Richard Downing, VOR/DME RNAV RWY 22, Amdt. 4
Kent, OH—Kent State University, VOR–A, Amdt. 12
Kent, OH—Kent State University, NDB RWY 1, Amdt. 11
Mansfield OH—Mansfield Lahm Muni, VOR RWY 14, Amdt. 13
Mansfield, OH—Mansfield Lahm Muni, VOR RWY 32, Amdt. 6
Mansfield, OH—Mansfield Lahm Muni, NDB RWY 32, Amdt. 11
Mansfield, OH—Mansfield Lahm Muni, ILS RWY 32, Amdt. 15
Mansfield, OH—Mansfield Lahm Muni, RADAR–1, Amdt. 3
Mansfield, OH—Mansfield Lahm Muni, VOR/DME RNAV RWY 23, Amdt. 6
New Philadelphia, OH—Harry Clever Field, VOR/DME–B, Amdt. 1
Tiffin, OH—Seneca County, VOR RWY 6, Amdt. 7
Tiffin, OH—Seneca County, NDB RWY 24, Amdt. 6
Block Island, RI—Block Island State, VOR RWY 28, Amdt. 3
Block Island, RI—Block Island State, VOR/DME RWY 10, Amdt. 3
Block Island, RI—Block Island State, NDB RWY 10, Amdt. 3
Wise, VA—Lonesome Pine, SDF/DME RWY 24, Amdt. 2
Chetek, WI—Chetek Muni-Southworth, VOR/DME RWY 17, Amdt. 1
Cumberland, WI—Cumberland Muni, VOR/DME RWY 27, Amdt. 1
Juneau, WI—Dodge County, NDB RWY 2, Amdt. 9
Juneau, WI—Dodge County, NDB RWY 20, Amdt. 7
Juneau, WI—Dodge County, RNAV RWY 20, Amdt. 2, CANCELLED
Minocqua/Woodruff, WI—Lakeland/Noble F. Lee Mem Fld, NDB RWY 36, Amdt. 8
Prairie Du Chien, WI—Prairie Du Chien Muni, VOR/DME RWY 29, Amdt. 6

* * * *Effective May 28, 1992*

Monroe, MI—Custer, VOR RWY 3, Orig.
Monroe, MI—Custer, VOR–B, Orig., CANCELLED
Monroe, MI—Custer, VOR/DME RNAV RWY 21, Amdt. 4
Indiana, PA—Indiana County/Jimmy Stewart Field, LOC RWY 28, Orig.
Indiana, PA—Indiana County/Jimmy Stewart Field, LOC–B, Amdt. 2, CANCELLED

* * * *Effective April 16, 1992*

Rockwood, TN—Rockwood Muni, VOR/DME RWY 22, Amdt. 4

[FR Doc. 92–10203 Filed 4–30–92; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 26854; Amdt. No. 1490]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amended establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale

by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the effected airports.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC on April 24, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 u.t.c. or the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49 (b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC No.	SIAP
04/01/92	MN	Detroit Lakes	Detroit Lakes	FDC2/2001	VOR rwy 31 admt 3 this corrects NOTAM 2/1872 IN TL 92-9.
04/09/92	TN	Memphis	Memphis Intl	FDC2/2008	NDB rwy 9, Amdt 25A.
04/10/92	AK	Barrow	Wiley Post-Will Rogers Mem	FDC2/2016	NDB rwy 6 amdt 5.
04/10/92	AK	Barrow	Wiley Post-Will Rogers Mem	FDC2/2017	VOR rwy 24 amdt 3A.
04/10/92	AK	Barrow	Wiley Post-Will Rogers Mem	FDC2/2018	VOR/DME rwy 24 orig A.
04/10/92	AK	Barrow	Wiley Post-Will Rogers Mem	FDC2/2055	ILS/DME rwy 6 amdt 2.
04/10/92	OR	The Dalles	The Dalles Muni	FDC2/2027	VOR/DME-A, amdt 3A.
04/13/92	GA	Augusta	Bush Field	FDC2/2058	ILS rwy 35 amdt 25 this corrects NOTAM 2/1800 IN TL 92-9.

NFDC TRANSMITTAL LETTER—Continued

Effective	State	City	Airport	FDC No.	SIAP
04/13/92	GA	Augusta	Bush Field	FDC2/2059	ILS rwy 17 amdt 6 this corrects NOTAM 2/1799 IN TL 92-9.
04/16/92	WA	Port Angeles	Port Angeles CGAS	FDC2/2185	COPTER NDB 237 orig.
04/16/92	WA	Port Angeles	William R. Fairchild Intl	FDC2/2182	ILS-2 rwy 8 amdt 1.
04/16/92	WA	Seattle	Boeing Field/King County Intl	FDC2/2179	LOC BC rwy 31L amdt 10.
04/16/92	WA	Seattle	Seattle-Tacoma Intl	FDC2/2141	NDB rwy 16R orig.
04/16/92	WA	Seattle	Seattle-Tacoma Intl	FDC2/2177	VOR rwy 16L/R amdt 11.
04/16/92	WA	Seattle	Seattle-Tacoma Intl	FDC2/2180	ILS rwy 16R, cat 1, 2 and 3, amdt 10.
04/16/92	WY	Worland	Worland Muni	FDC2/2181	VOR rwy 16, amdt 4.
04/17/92	MI	Marquette	Marquette County	FDC2/2190	LOC BC rwy 26 amdt 7.
04/17/92	SC	Columbia	Columbia Metropolitan	FDC2/2203	RNAV rwy 5 orig.
04/17/92	WA	Port Angeles	William R. Fairchild Intl	FDC2/2194	ILS-1 rwy 8 amdt 1.
04/20/92	MT	West Yellowstone	Yellowstone	FDC2/2229	NDB rwy 1, amdt 3.
04/20/92	MT	West Yellowstone	Yellowstone	FDC2/2230	ILS rwy 1, amdt 3.
04/21/92	OR	Medford	Medford-Jackson County	FDC2/2249	ILS/DME rwy 14 amdt 13.
04/30/92	AK	Barrow	Wiley Post-Will Rogers Mem	FDC2/2019	LOC/DME BC rwy 24 amdt 2.

NFDC Transmittal Letter Attachment

Barrow

Wiley Post-Will Rogers Mem
Alaska
NDB Rwy 6 AMDT 5...
Effective: 04/10/92

FDC 2/2016/BRW/FI/P Wiley Post-Will Rogers Mem, Barrow, AK. NDB RWY 6 AMDT 5...MSA IEY 1500. This becomes NDB RWY 6 AMDT 5A

Barrow

Wiley Post-Will Rogers Mem
Alaska
VOR RWY 24 AMDT 3A...
Effective: 04/10/92

FDC 2/2017/BRW/FI/P Wiley Post-Will Rogers Mem, Barrow, AK. VOR RWY 24 AMDT 3A...MSA BRW 1500. This becomes VOR RWY 24 AMDT B.

Barrow

Wiley Post-Will Rogers Mem
Alaska
VOR/DME RWY 24 ORIG A...
Effective: 04/10/92

FDC 2/2018/BRW/FI/P Wiley Post-Will Rogers Mem, Barrow, AK. VOR/DME RWY 24 ORIG A...MSA BRW 1500. This becomes VOR/DME RWY 24 ORIG B.

Barrow

Wiley Post-Will Rogers Mem
Alaska
LOC/DME BC RWY 24 AMDT 2...
Effective: 04/10/92

FDC 2/2019/BRW/FI/P Wiley Post-Will Rogers Mem, Barrow, AK. LOC/DME BC RWY 24 AMDT 2...MSA BRW 1500. This becomes LOC/DME BC RWY 24 AMDT 2A.

Barrow

Wiley Post-Will Rogers Mem
Alaska
ILS/DME RWY 6 AMDT 2...
Effective: 04/10/92

FDC 2/2055/BRW/FI/P Wiley Post-Will Rogers Mem, Barrow, AK. ILS/DME RWY 6 AMDT 2... MSA IEY 1500. This becomes ILS/DME RWY 6 AMDT 2A.

Augusta

Bush Field
Georgia
ILS RWY 35 AMDT 25...
Effective: 04/13/92
This corrects NOTAM 2/1800 IN TL 92-9.

FDC 2/2058/AGS/FI/P Bush Field, Augusta, GA. ILS RWY 35 AMDT 25...Delete note... when control TWR CLSD activate MALSR RWY 17 and ALSF-1 RWY 35 CTAF. This becomes ILS RWY 35 AMDT 25A.

Augusta

Bush Field
Georgia
ILS RWY 17 AMDT 6...
Effective: 04/13/92
This Corrects NOTAM 2/1799 IN TL 92-9.

FDC 2/2059/AGS/FI/P Bush Field, Augusta, GA. ILS RWY 17 AMDT 6...delete note... when control TWR CLSD activate MALSR RWY 17 and ALSF-1 RWY 35 CTAF. This becomes ILS RWY 17 AMDT 6A.

Marquette

Marquette County
Michigan
LOC BC RWY 26 AMDT 7...
Effective: 04/17/92

FDC 2/2190/MQT/FI/P Marquette County, Marquette, MI. LOC BC RWY 26 AMDT 7...radar required, delete terminal route MQT VOR/DME To Dosan Int. Delete proc Turn. Delete Note...Air Carrier Landing...Thru...Not Authorized. This is LOC BC RWY 26 AMDT 7A.

Detroit Lakes

Detroit Lakes
Minnesota
VOR RWY 31 AMDT 3...
Effective: 04/01/92
This Corrects NOTAM 2/1872 IN TL 92-9.

FDC 2/2001/DTL/FI/P Detroit Lakes, Detroit Lakes, MN. VOR RWY 31 AMDT 3...delete notes, "Obtain local altimeter setting thru...MDAS 180 feet.", "Active MIRL and REILS RWY 13-31—122.8.". add note, "If local altimeter setting not received use Fargo Altimeter setting and increase All MDAS 180 feet.". This is VOR RWY 31 AMDT 3A.

West Yellowstone

Yellowstone
Montana
NDB RWY 1, AMDT 3...
Effective: 04/20/92

FDC 2/2229/WYS/FI/P Yellowstone, West Yellowstone, MT. NDB RWY 1, AMDT 3...revise TRML routes...DBS VORTAC TO LO LOM, 041/52.4NM, 1150 ft; DNW VOR/DME TO COP, 306 35.0NM, 15000 ft; COP TO LO LOM, 306/23.3NM 1100 ft...delete notes...Activate MALSR RWY 1, HIRL RWY 1-19, REIL RWY 19-122.8 and...proc NA when Yellowstone Altimeter setting not AVBL...add note...if Local ALSTG not received, proc NA. This becomes NDB RWY 1, AMDT 3A.

West Yellowstone

Yellowstone
Montana
ILS RWY 1, AMDT 3...
Effective: 04/20/92

FDC 2/2230/WYS/FI/P Yellowstone, West Yellowstone, MT. ILS RWY 1, AMDT 3...revise TRML routes...DBS VORTAC TO LO LOM)041/52.4 NM., 11500 ft; DNW VOR/DME TO COP, 306/35.0NM, 15000 ft; COP TO LO LOM, 306/23.3NM, 11000 ft. delete notes...Activate

MALSR RWY 1, HIRl RWY 1√19, REIL RWY 19–122.8...and proc NA when Yellowstone Altimeter setting not AVBL...add note...if Local ALSTG not received, proc NA. This becomes ILS RWY 1, AMDT 3A.

The Dalles

The Dalles Muni
Oregon
VOR/DME–A, AMDT 3A...
Effective: 04/10/92

FDC 2/2027/DLS/FI/P THE Dalles Muni, the Dalles, OR. VOR/DME–A, AMDT 3A...PROC NA.

Medford

Medford-Jackson County
Oregon
ILS/DME RWY 14 AMDT 13...
Effective: 04/21/92

FDC 2/2249/MFR/ FI/P Medford-Jackson County, Medford, OR. ILS/DME RWY 14 AMDT 13...S–ILS 14 CAT A DH 1570, HAT 260, RVR 4000. CAT B DH 1630, HAT 320, RVR 4000. CATS C and D DH 1860, HAT 550, VIS 1½...S–LOC 14 CAT A MDA 1680, HAT 370, RVR 4000. CAT B MDA 1840, HAT 530, RVR 4000. CAT C MDA 1960, HAT 650, RVR 6000. CAT D MDA 2000, HAT 690, VIS 1¾...circling CAT A MDA 2000, HAA 669 VIS 1. CAT B MDA 2000, HAA 669, VIS 1¼. CAT C MDA 2000, HAA 669, VIS 2. CAT D MDA 2340, HAA 1009, VIS 3. Delete Notes...CAT D S–14 vis increased ¼ mile for INOP MALSR and activate MALSR RWY 14-CTAF...add notes...CAT A S–ILS VIS increased to RVR 5000 for INOP MALSR...CATS A and B S–LOC VIS increased to RVR 5000 FOR INOP MALSR. INOP table does not apply to MM. Change missed apch to read. Cat a climb to 2000...Cat B to 2200...Cats C and D to 2400. Then climbing right turn to 6000 direct OED VORTAC and hold. Change MSA ALT 090–180 from MF to 8700 ft. This becomes ILS/DME RWY 14 AMDT 13A.

Columbia

Columbia Metropolitan
South Carolina
RNAV RWY 5 ORIG...
Effective: 04/17/92

FDC 2/2203/CAE/ FI/P Columbia Metropolitan, Columbia, SC. RNAV RWY 5 ORIG...missed apch...climbing right turn to 2100 direct to CAE VORTAC and hold. This becomes RNAV RWY 5 ORIG A.

Memphis

Memphis Intl
Tennessee
NDB RWY 9, AMDT 25A...
Effective: 04/09/92

FDC 2/2008/MEM/ FI/P Memphis Intl, Memphis, TN. NDB RWY 9, AMDT 25A...TRML RTE FROM HLI VORTAC TO ME LOM MIN ALT 1900. This becomes NDB RWY 9 AMDT 25B.

Seattle

Seattle-Tacoma Intl
Washington
NDB RWY 16R ORIG...
Effective: 04/16/92

FDC 2/2141/SEA/ FI/P Seattle-Tacoma Intl, Seattle, WA. NDB RWY 16R ORIG...delete TRML RTE FROM PAE VOR/DME TO SZ LOM. Add note in plan view...Radar required. This becomes NDB RWY 16R, ORIG–A.

Seattle

Seattle-Tacoma Intl
Washington
VOR RWY 16L/R AMDT 11...
Effective: 04/16/92

FDC 2/2177/SEA/ FI/P Seattle-Tacoma Intl, Seattle, WA. VOR RWY 16L/R AMDT 11...Delete trml rte from PAE VOR/DME to SEA 11 DME. Add note in plan view...radar required. This becomes VOR RWY 16L/R AMDT 11A.

Seattle

Boeing Field/King County Intl
Washington
LOC BC RWY 31L AMDT 10...
Effective: 04/16/92

FDC 2/2179/BFI/ FI/P Boeing Field/King County Intl, Seattle, WA. LOC BC RWY 31L AMDT 10...Change missed apch to read...Climbing left turn to 6000 VIA heading 285 and sea R307 to Lofal Int and hold. This becomes LOC BC RWY 31L, AMDT 10A.

Seattle

Seattle-Tacoma Intl
Washington
ILS RWY 16R, CAT 1,2 AND 3, AMDT 10...
Effective: 04/16/92

FDC 2/2180/SEA/ FI/P Seattle-Tacoma Intl, Seattle, WA. ILS Rwy 16R, CAT 1, 2 and 3, AMDT 10...Delete TRML RTE from PAE VOR/DME TO ERYKA INT...add note in plan view...Radar required...This becomes ILS RWY 16R, CAT 1, 2 and 3 AMDT 10A.

Port Angeles

William R. Fairchild Intl
Washington
ILS–2 RWY 8 AMDT 1...
Effective: 04/16/92

FDC 2/2182/CLM/ FI/P William R. Fairchild Intl, Port Angeles, WA. ILS–2 RWY 8 AMDT 1...raise TRML RTE ALT from WATTR INT TO CL LOM TO 6500 ft. delete lighting note...Activate MALSR RWY 8–122.8. Change Missed apch to read...Climb to 2000 then climbing left turn to 5000 direct CL LOM and hold. This becomes ILS–2 RWY 8 AMDT 1A.

Port Angeles

Port Angeles Cgas
Washington
Copter NDB 237 ORIG...
Effective: 04/16/92

FDC 2/2185/NOW/ FI/P Port Angeles Cgas, Port Angeles, WA. Copter NDB 237 ORIG...Delete TRML rte from Wattr INT TO EDIZ Hook NDB. Add Note in plan view...radar required...delete note...helicopters must proceed VFR from map to landing area or conduct the specified missed apch. Change missed apch proc to read...climbing right turn to 1600 VIA BRG 057 from EDIZ HOOK NDB then climbing left turn to 3000 direct EDIZ HOOK NDB and hold. This becomes copter NDB 237 ORIG–A.

Port Angeles

William R. Fairchild Intl
Washington
ILS–1 RWY 8 AMDT 1...
Effective: 04/17/92

FDC 2/2194/CLM/ FI/P William R. Fairchild Intl, Port Angeles, WA. ILS–1 RWY 8 AMDT 1...raise trml rte alt from WATTR INT to CL LOM to 6500 ft. Delete lighting note—activate MALSR RWY 8 122.8. Change Missed Apch to read... Climb to 2000 then climbing left turn to 5000 direct CL LOM and hold. This becomes ILS–1 RWY 8 AMDT 1A.

Worland

Worland Muni
Wyoming
VOR RWY 16, AMDT 4...
Effective: 04/16/92

FDC 2/2181/WRL/ FI/P Worland Muni, Worland, WY. VOR RWY 16, AMDT 4...add note...obtain LCL ALSTG ON CTAF...when not received, proc NA...add note to ALTN MINS...NA when CTLZ not in effect. This becomes VOR RWY 16, AMDT 4A.

[FR Doc. 92–10198 Filed 4–30–92, 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 773

[Docket No. 920370–2070]

Revisions to the Distribution License Procedure

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for public comment.

SUMMARY: The Bureau of Export Administration (BXA) is amending the

Export Administration Regulations (EAR) by establishing new computer eligibility levels under the Distribution License Procedure for various countries based on the Composite Theoretical Performance (CTP) of the computers.

This rule implements, for computers, the President's November 16, 1990, directive to increase the threshold for Distribution Licenses.[1]

DATES: This rule is effective May 1, 1992. Comments must be received by June 15, 1992.

ADDRESSES: Written comments (six copies) should be sent to: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Marc Kron, Office of Export Licensing, Bureau of Export Administration, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-3287.

SUPPLEMENTARY INFORMATION:

Background

Since 1968, the Commerce Department has permitted exports of controlled items without review of individual transactions by the United States Government through a distribution license procedure (DL). The DL is issued to approved U.S. exporters and permits the exports of a pre-approved list of commodities to a preapproved list of foreign consignees (often a distributor or "middleman"). DL holders are required to maintain a rigorous internal control program, including training of company employees, record retention, and special procedures for processing orders. DL holders are also required to train and audit their foreign consignees. There are limitations to the use of the DL. DL exports are not permitted to controlled countries or to countries embargoed for foreign policy purposes (e.g., Cuba and Libya). In addition, the Export Administration Regulations prohibit the shipment under the DL procedure of items listed in supplement no. 1 to part 773.

On May 2, 1991 (56 FR 20154), BXA proposed to establish a Certified Exporter and Consignee Procedure (CEC) that would have authorized exports and reexports of certain commodities by approved parties in the United States and abroad. BXA also proposed to revise and reformat the list of specific commodities excluded from certain special license procedures.

On January 6, 1992 (57 FR 4553), BXA issued a final rule that reformatted supplement no. 1 to part 773 from an entry specific listing to a listing of categories of goods that are not eligible for the special license procedures. In addition, supplement no. 1 to part 773 contained revisions to computer eligibility levels for various countries based on the Composite Theoretical Performance (CTP) of the computers.

At present, BXA does not intend to proceed with implementing the Certified Exporter and Consignee (CEC) procedure. The decision not to proceed with the CEC procedure was largely based on the wide variety of public comments received, the decreasing number of DL's in use by U.S. exporters, and the additional expense conducting the necessary audits and reviews of participants in the CEC program.

Consistent with the President's directive,[2] to increase Distribution License thresholds for free world destinations, the Bureau of Export Administration is revising the computer level thresholds.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0002, 0694-0006, and 0694-0015.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. This rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is being issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close June 15, 1992. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information

[1] This directive was included in the President's memorandum of disapproval of H.R. 4653, the "Omnibus Export Amendments Act of 1990", and was published in the Weekly Compilation of Presidential Documents, Vol. 26, No. 40, November 19, 1990, p. 1839.

[2] This directive was included in the President's memorandum of disapproval of H.R. 4653, the "Omnibus Export Amendments Act of 1990", and was published in the Weekly Compilation of Presidential Documents, Vol. 26, No. 46, November 19, 1990, p. 1839.

Officer, at the above address or by calling (202) 377-2593.

List of Subjects in 15 CFR Part 773

Exports, Reporting and recordkeeping requirements.

Accordingly, part 773 of the Export Administration Regulations (15 CFR parts 730-799) is amended as follows:

PART 773—[AMENDED]

1. The authority citation for part 773 continues to read as follows:

Authority: Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended, Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

2. Section 773.3 is amended by revising paragraph (a)(1)(ii) to read as follows:

§ 773.3 Distribution license.

* * * * *

(a) * * *

(1) * * *

(ii) All countries in Country Group V, except Afghanistan, Iran, Jordan, Lebanon, Syria, and the People's Republic of China.

* * * * *

3. Supplement no. 1 to part 773 is amended by revising paragraphs (a) and (l) and by removing footnotes 1, 2, and 3 to paragraph (l), as follows:

Supplement No. 1 to Part 773—Commodities Excluded From the Special License Procedures

* * * * *

(a) Supercomputers, as defined in § 770.2 of this subchapter, to all destinations except:

(1) Canada and Japan;

(2) Australia, Belgium, Denmark, France, Germany, Italy, the Netherlands, Norway, Spain, and the United Kingdom, provided that the export comports with supercomputer security conditions available from the Special Licensing Division of OEL;

* * * * *

(l) Commodities subject to nuclear non-proliferation controls (see § 778.2 of this subchapter), except that:

(1) Electronic computers (Category 4 of the CCL) are eligible for export under the Distribution License to certain destinations as follows:

(i) Australia, Belgium, Canada, Denmark, France, Germany, Italy, Japan, the Netherlands, Norway, Spain, and the United Kingdom (Supercomputers are eligible as provided in paragraph (a) of this Supplement);

(ii) For other destinations listed in supplement nos. 2 or 8 to part 773, only electronic computers having a Composite Theoretical Performance (CTP) less than 195 MTOPS (million theoretical operations per second) are eligible;

Note: OEL may determine, on a case-by-case basis, that a "borderline" computer with a CTP between 195 and 200 MTOPS is not subject to supercomputer restrictions, thereby making it eligible for all destinations listed in supplement nos. 2 or 8 to part 773. See § 776.11(a)(2) of this subchapter.

(iii) For destinations listed in supplement no. 3 to part 773, only electronic computers having a Composite Theoretical Performance (CTP) of 100 MTOPS (million theoretical operations per second) or less are eligible;

(iv) For destinations not listed in supplement nos. 2, 3, or 8 to part 773, only electronic computers having a Composite Theoretical Performance (CTP) of 41 MTOPS (million theoretical operations per second) or less are eligible, except for Argentina, Brazil, India, Israel, Pakistan, and the Republic of South Africa where the CTP may not exceed 12.5 MTOPS;

(2) Computers may be approved under the Project License procedure and Service Supply License on a case-by-case basis. Project License applicants should specify the types and sizes of computers and describe how they will be used in the project.

(3) Certain oscilloscopes may be eligible under supplement no. 4 to part 773.

* * * * *

Dated: April 22, 1992.

James M. LeMunyon,

Acting Assistant Secretary for Export Administration.

[FR Doc. 92-9848 Filed 4-30-92; 8:45 am]

BILLING CODE 3510-DT-M

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15 CFR Parts 774 and 779

[Docket No. 920375-2075]

Reexports of "A" Level Commodities From COCOM Participating and Cooperating Countries to Destinations in Country Groups QTVWY

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule, with request for comments.

SUMMARY: The Bureau of Export Administration is amending the Export Administration Regulations (EAR) by revising § 774.2(i) and by removing § 774.3(d) to allow permissive reexports of multilaterally controlled ("A" level) commodities from COCOM participating and fully cooperating countries to most destinations, subject to certain restrictions.

"A" level commodities that are subject to foreign policy controls on crime control and detection equipment described in § 776.14 are not eligible for permissive reexport under this rule.

This rule also revises § 779.8(b)(2) to allow permissive reexports of certain U.S. origin technical data and the foreign produced direct products thereof from COCOM participating countries to Country Groups Q, W, or Y or the People's Republic of China.

On November 16, 1990, the President directed that a number of changes in export controls be implemented, including the elimination, consistent with multilateral arrangements, of reexport licenses from COCOM member countries under section 5 of the Export Administration Act of 1979, as amended (EAA). This rule makes changes consistent with the President's directive.

DATES: This rule is effective May 1, 1992. Comments must be received by June 1, 1992.

ADDRESSES: Written comments (six copies) should be sent to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Regulations Branch, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This rule will reduce the paperwork burden on the public, thus satisfying the Paperwork Reduction Act. This collection of information has been approved by the Office of Management and Budget under control number 0694-0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory

Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. Moreover, this rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is being issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close on June 1, 1992. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public record and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations.

Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-5653.

List of Subjects

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

15 CFR Part 779

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

Accordingly, parts 774 and 779 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

PART 774—[AMENDED]

1. The authority citation for part 774 continues to read as follows:

Authority: Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93-153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94-258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 3129a); sec. 208, Pub. L. 95-372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99-64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1980); as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

2. Section 774.2 is amended by:

a. By revising paragraph (i) as set forth below; and

b. By revising in paragraph (k)(2) the parenthetical phrase "(as defined in § 774.3(e)(1)(ii))" to read "(as defined in § 770.2 of this subchapter)".

§ 774.2 Permissive Reexports.[2]

* * * * *

(i) Reexports from COCOM participating and fully cooperating countries, provided that:

(1) The reexport is from a COCOM participating or fully cooperating country, i.e., Australia, Austria, Belgium, Canada, Denmark, France, the Federal Republic of Germany, Finland, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, or the United Kingdom;

(2) The reexport is made in accordance with the conditions of an export authorization from the applicable COCOM participating or fully cooperating country;

(3) The commodities being reexported are not subject to the foreign policy controls on crime control and detection instruments and equipment described in § 776.14 of this subchapter; and

(4) (i) The reexport is to a country in Country Group T or V (other than the People's Republic of China) or Cambodia or Laos, except a country or project listed in supplement nos. 4, 5, or 6 to part 778 of this subchapter; and

(ii) The commodities being reexported are identified by the code letter "A" suffix on the Commerce Control List and are eligible for General License GCT; or

(5) The reexport is to a country in Country Group QWY (other than Cambodia or Laos) or the People's Republic of China, and the commodities being reexported are identified by the code letter "A" suffix on the Commerce Control List.

* * * * *

§ 774.3 [Amended]

3. Section 774.3 is amended by removing and reserving paragraph (d).

PART 779—[AMENDED]

4. The authority citation for part 779 continues to read as follows:

Authority: Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

5. Section 779.8(b)(2) is revised to read as follows:

[2] See § 774.9 for effect on foreign laws.

§ 779.8 Reexports of technical data and exports of the product manufactured abroad by use of United States technical data.

* * * * *

(b) * * *

(2) *COCOM authorization.* Separate specific authorization by the Office of Export Licensing to export or reexport any U.S.-origin technical data or the foreign-produced direct product thereof is not required if all of the following conditions are met:

(i) The items being exported are identified by the suffix "A" on the CCL;

(ii) The export or reexport is from a COCOM participating country, i.e., Australia, Belgium, Canada, Denmark, France, the Federal Republic of Germany, Greece, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, or the United Kingdom;

(iii) The export or reexport is made in accordance with the conditions of the licensing authorization issued by the applicable COCOM participating country; and

(iv) The export or reexport is to a country in Country Group Q, W, or Y or the People's Republic of China.

Dated: April 22, 1992.

James M. LeMunyon,

Acting Assistant Secretary for Export Administration.

[FR Doc. 92-9847 Filed 4-30-92; 8:45 am]

BILLING CODE 3510-DT-M

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15 CFR Part 799

[Docket No. 920371-2071]

Revision of General License GCT; COCOM Trade

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule, with request for comments.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to adjust the number of commodities eligible for shipment under General License GCT. General License GCT authorizes exports to COCOM member countries, Austria, Finland, Ireland, Sweden, and Switzerland of most commodities that are controlled under "A" level Export Control Classification Numbers (ECCNs) on the Commerce Control List (CCL) except those commodities specifically excluded by the *GCT* paragraphs in certain ECCNs. This rule expands General License GCT eligibility to include all "A" level commodities included on the CCL, except supercomputers, cryptographic equipment, and commodities listed on the International Atomic Energy List (IAEL), the International Munitions List (IML), the Missile Technology Control Regime (MTCR), and certain commodities on the Nuclear Referral List.

Although this rule narrows GCT eligibility in certain cases, the net result of these changes will result in a decrease in the number of validated license applications that would have to be submitted for GCT eligible destinations.

DATES: This rule is effective May 1, 1992. Comments must be received by June 15, 1992.

ADDRESSES: Written comments (six copies) should be sent to: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Adminstration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:

Background

This rule expands the number of commodities eligible for shipment under General License GCT to include all "A" level commodities on the CCL except supercomputers, cryptographic equipment, and commodities on the International Atomic Energy List (IAEL), the International Munitions List (IML), and the Missile Technology Control Regime (MTCR), and those image intensifier tubes, high speed cameras and flash X-ray systems controlled on the Nuclear Referral List. The supercomputer exclusion continues to apply to computers having a Composite Theoretical Performance (CTP) capability equal to or greater than 195 MTOPS (million theoretical operations per second). The supercomputer exclusion does not apply to Japan.

The increase in the number of GCT eligible commodities is made possible by the agreement of member countries of the Coordinating Committee for Multilateral Export Controls (COCOM) to fully implement the Common Standard Level of Effective Protection (Common Standard) by January 1, 1992. Agreement on full implementation of the Common Standard was reached at a high level COCOM meeting on May 23, 1991.

The United States is consulting with COCOM member countries, the Australia Group countries, and countries participating in the Missile Technology Control Regime to establish a harmonized exclusion list that would apply to General License GCT. This might result in making an even broader range of commodities eligible for General License GCT (e.g., certain "A" level commodities that are currently subject to foreign policy controls on missile technology and certain "B" level commodities). The Bureau of Export Administration (BXA) encourages comments on General License GCT and commodities that should make up the exclusion list.

This rule retains the importer statement requirement described in § 771.25(d) of the Export Administration Regulations (EAR). The importer statement is required for any "A" level commodities that are not eligible for the General License GFW. Exporters are encouraged to comment on the effectiveness and appropriateness of this requirement.

Saving Clause

Shipments of items removed from general license authorizations as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard carrier to a port of export pursuant to actual orders for export before May 18, 1992 may be exported under the previous general license provisions up to and including June 1, 1992. Any such items not actually exported before midnight June 1, 1992, require a valiated export license in accordance with this regulation.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule affects collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). A reduction is validated licensing requirements will occur because of this rule, reducing the paperwork burden on the public. Affected OMB collections have been approved under Control Numbers 0694-0005, 0694-0007, 0694-0010, and 0694-0015.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C.

553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. This rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is being issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. The Department specifically encourages comments on the Importer Statement requirements of § 771.25(d). Comments on making certain "B" level commodities eligible for General License GCT are also encouraged.

The period for submission of comments will close June 15, 1992. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-2593.

List of Subjects in 15 CFR Part 799

Exports, Reporting and recordkeeping requirements.

Accordingly, part 799 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citation for 15 CFR Part 799 is revised to read as follows:

Authority: Public Law 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Public Law 93-153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Public Law 94-163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Public Law 94-258, 90 Stat. 309 (10 U.S.C. 7420 and 7420(e)), as amended; Public Law 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Public Law 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Public Law 95-372, 92 Stat. 668 (43 U.S.C. 1354); Public Law 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Public Law 99-64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990) as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

PART 799—[AMENDED]

2. In Supplement No. 1 to § 799.1 (the Commerce Control List), the entries listed below are amended by revising the Requirements section for each entry:

A. In Category 1, Materials; ECCNs 1B01A, 1B18A, 1B19A, 1C18A, and 1C19A;

B. In Category 2, Material Processing: ECCNs 2A19A, 2B05A, and 2B18A;

C. In Category 3, Electronics: ECCN 3B01A;

D. In Category 4, Computers: ECCN 4A01A;

E. In Category 6, Sensors: ECCNs 6A01A, 6A02A, 6A03A, and 6A18A;

F. In Category 8, Marine Technology: ECCNs 8A01A, 8A02A, and 8A18A;

G. In Category 9, Propulsion Systems and Transportation Equipment: ECCNs 9B01A, 9B06A, and 9B26B; and

H. In Category 0, Miscellaneous: ECCN 0A18A.

1B01A Equipment for the production of fibers, prepregs, preforms or composites controlled by 1A02 or 1C10, as follows, and specially designed components and accessories therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS, MT, NP (see Note).
GLV: $5,000.
GCT: Yes, except MT (see Note).
GFW: No.
Group W Favorable Consideration: No for 1B01.a and .b.

Note: MT controls apply, *except* to .d.4. NP controls apply to filament winding machines described in .a that are capable of winding cylindrical rotors having a diameter between 3 inches and 16 inches and a length of 24 inches or greater.

* * * * *

1B18A Commodities on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ.
Unit: Equipment in number, parts & accessories in $ value.
Reason for Control: NS and MT (see Note).
GLV: 1B18.a.1: $3,000 for NATO, Japan, Australia, New Zealand only; 1B18.b: $5,000.
GCT: No.
GFW: No.

Note: MT controls apply to equipment for the production of rocket propellants.

* * * * *

1B19A Commodities on the International Atomic Energy List.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS and NP.
GLV: $3,000 for 1B19.b only.
GCT: No.
GFW: No.

* * * * *

1C18A Items on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ.
Unit: Kilograms.
Reason for Control: NS.
GLV: $3,000.
GCT: No.
GFW: Yes, (Advisory Note only).

* * * * *

1C19A Items on the International Atomic Energy List.

Requirements

Validated License Required: QSTVWYZ.
Unit: Kilograms.
Reason for Control: NS, NP.
GLV: 1C19.a and .e: $3,000; 1C19.b and .c: $500; 1C19.b: $1,500.
GCT: No.
GFW: Yes, for 1C19.a (Advisory Note 1 only); Yes, for 1C19.b (Advisory Note 2 only).

* * * * *

2A19A Commodities on the International Atomic Energy List.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NS and NP.
GLV: $500:2A19.a; $0: 2A19 .b and .c.
GCT: No.
GFW: Yes for 2A19.b (Advisory Notes 1 and 2 only) and for 2A19.c (Advisory Note 3 only).

* * * * *

2B05A Equipment specially designed for the deposition, processing and in-process control of inorganic overlays, coatings and surface modifications, as follows, for non-electronic substrates, by processes shown in the Table and associated Notes following 2E03.d and specially designed automated handling, positioning, manipulation, and control components therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS.
GLV: $1,000.
GCT: Yes.
GFW: No.
Group W. Favorable Consideration: No.

* * * * *

2B18A Commodities on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NS, MT, and FP (see Notes).
GLV: $3,000.
GCT: No.
GFW: Yes (Advisory Note only).
Group W Favorable Consideration: Yes, except MT (see Notes).

Notes: 1. MT controls apply to specialized machinery, equipment, and gear for producing rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicles systems (including cruise missile systems, target drones, and reconnaissance drones) as described in § 778.7(a) of this subchapter, their propulsion systems and components, and pyrolytic deposition and densification equipment.

2. FP controls apply to all exports to South Africa of commodities described in 2B18.

* * * * *

3B01A Equipment for the manufacture or testing of semiconductor devices or materials, as follows, and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number.
Reason for Control: NS.
GLV: $500.
GCT: Yes.
GFW: No.
Group W Favorable Consideration: Yes, except 3B01.a.2, .a.3, and .g.

* * * * *

4A01A Electronic computers and related equipment, as follows, and "assemblies" and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: Computers and Peripherals in Number, Parts and Accessories in $ value.
Reason for Control: NS, MT, and NP (see Notes).
GLV: $5,000 for 4A01.a *only*; $0 for 4A01.b.
GCT: Yes, except MT and except electronic computers with a CTP equal to or greater than 195 Mtops (no CTP ceiling for Japan).
GFW: No.
Group W Favorable Consideration: No.

Notes: 1. MT controls apply to 4A01.a.

2. NP controls apply to the following: a. Supercomputers (as defined in § 770.3 of this subchapter) to countries listed in Supplement Nos. 2 and 8 to Part 773 of this subchapter;

b. Computers with a CTP exceeding 41 Mtops to countries listed in Supplement No. 3 to Part 773 of this subchapter;

c. Computers with a CTP exceeding 12.5 Mtops to all other destinations.

* * * * *

6A01A Acoustics.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS.
GLV: $3,000.
GCT: Yes.
GFW: Yes for 6A01.a.1.b.4 only (see Advisory 1).
Group W Favorable Consideration: No.

* * * * *

6A02A Optical Sensors.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NS, FP, MT and NP (see Notes).
GLV: $3,000.
GCT: Yes, except MT, 6A02.a.1, a.2, a.3, and c (see Notes).
GFW: Yes (Advisory Notes 2 and 3 to Category 6 only).
Group W Favorable Consideration: Yes, except MT (see Notes).

Notes: 1. FP controls apply to any destination except Australia, Japan, New Zealand, and members of NATO for police model infrared viewers controlled by this ECCN.

2. MT controls apply to optical detectors described in 6A02.a.1, a.3, and a.4 that are specially designed or rated as electromagnetic (including "laser") and ionized-particle radiation resistant.

3. NP controls apply to all countries, except countries listed in supplement no. 2 to part 773 of this subchapter, for image intensifier tubes and specially designed components described in 6A02.a.2.

* * * * *

6A03A Cameras.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number.
Reason for Control: NS and NP (NP controls apply to 6A03.a.2 through .a.5 and .b.1 only).
GLV: $1,500.
GCT: Yes, except 6A03.a.2, .a.3, .a.4, .a.5, and .b.1.
GFW: No.
Group W. Favorable Consideration: Yes, except 6A03.a.2 and .a.3.

* * * * *

6A18A Magnetic, pressure, and acoustic underwater detection devices and specially designed for military purposes and controls and components therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number, $ value for components.
Reason for Control: NS.
GLV: $5,000.
GCT: No.
GFW: No.

* * * * *

8A01A Submarine vehicles or surface vessels.

Requirements

Validated License Required: QSTVWYZ.
Unit: Vessels or Vehicles in Number, Parts and Accessories in $ value.
Reason for Control: NS.
GLV: $5,000.
GCT: Yes.
GFW: No.
Group W Favorable Consideration: Yes, *except* 8A01.a, .b, .c, and .d.

* * * * *

8A02A Systems or equipment.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number.
Reason for Control: NS.
GLV: $5,000.
GCT: Yes.
GFW: 8A02.i.2 *only* (see Advisory Note).
Group W Favorable Consideration: Yes, *except* 8A02.a, .b, .c, .h, and .i.

* * * * *

8A18A Commodities on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ (see Notes).
Unit: $ value.
Reason for Control: NS.
GLV: $5,000.

GCT: No.
GFW: No.

Notes: Marine water tube boilers require validated licensing only for QSWYZ, PRC, Iran, Syria, and Afghanistan.

* * * * *

9B01A Specially designed equipment, tooling or fixtures, as follows, for manufacturing or measuring gas turbine blades, vanes or tip shroud castings.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS, MT (see Note).
GLV: $5,000.
GCT: Yes, except MT (see Note).
GFW: No.

Note: MT controls apply to equipment for test, inspection, and production of small lightweight turbine engines described in 9A21.

* * * * *

9B06A Specially designed acoustic vibration test equipment capable of producing sound pressure levels of 160 dB or more (referenced to 20 micropascals) with a rated output of 4 kW or more at a test cell temperature exceeding 1273 K (1000 C), and specially designed transducers, strain gauges, accelerometers, thermocouples, or quartz heaters therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number.
Reason for Control: NS and MT (see Note).
GLV: $3,000.
GCT: Yes, except MT (see Note).
GFW: No.

Note: Missile technology controls apply to vibration test equipment.

* * * * *

9B26B Other vibration test equipment, as follows:

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: MT and NP (see Note).
GLV: $3,000.
GCT: No.
GFW: No.

Note: Nuclear non-proliferation controls apply to 9B26.a only.

* * * * *

0A18A Items on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ.
Unit: 0A18.a through .c: $ value; 0A18.d through .f: Number.
Reason for Control: NS and FP (see Notes).
GLV: 0A18.a and .b: $5,000; 0A18.c: $3,000; 0A18.d through .f: $1,500.
GCT: No.
GFW: No.

Notes: 1. FP controls apply to all exports to South Africa of items controlled by 0A18.b, .c, .d, and .e (see Supplement No. 2 to Part 779 of this subchapter).

2. FP controls for regional stability also apply to 0A18.c, except to NATO, Japan, Australia, and New Zealand.

3. License for export to Iran and Syria will generally be denied.

* * * * *

3. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9—Propulsion Systems and Transportation Equipment, entry 9B07 is amended by revising the Requirements section, by removing the List of Items Controlled heading, and by revising the note to read as follows:

9B07A Equipment specially designed for inspecting the integrity of rocket motors using non-destructive test (NDT) techniques other than planar X-ray or basic physical or chemical analysis.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number.
Reason for Control: NS and MT (see Note).
GLV: $0.
GCT: Yes, except MT (see Note).
GFW: No.

Note: MT controls include the following equipment covered by this item: Radiographic equipment capable of delivering electromagnetic radiation produced by "bremsstrahlung" from accelerated electrons of 2 Me V greater, except those specially designed for medical purposes.

* * * * *

Dated: April 22, 1992.

James M. LeMunyon,

Acting Assistant Secretary for Export Administration.

[FR Doc. 92-9849 Filed 4-30-92; 8:45 am]

BILLING CODE 3510-DT-M

FEDERAL TRADE COMMISSION

16 CFR Part 456

Ophthalmic Practice Rules

AGENCY: Federal Trade Commission.

ACTION: Final Trade regulation rule.

SUMMARY: The Federal Trade Commission has decided to remove portions of 16 CFR part 456, Ophthalmic Practice Rules, from the Code of Federal Regulations and to renumber the remaining portions of part 456. The portions to be removed prohibit state bans on the commercial practice of optometry and have been overturned by the U.S. Court of Appeals, D.C. Circuit. The remaining portions, to be renumbered, require optometrists and ophthalmologists to release eyeglass prescriptions. These portions were not overturned by the court and remain in effect.

EFFECTIVE DATE: May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Renee Kinscheck, Division of Service Industry Practices, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington DC (202) 326-3283.

SUPPLEMENTARY INFORMATION: On March 13, 1989, the Federal Trade Commission issued a Trade Regulation Rule on Ophthalmic Practice Rules. 54 FR 10285. In large part, this rule would have removed state prohibitions on the commercial practice of optometry (the "Eyeglasses II" Rule). The Commission also promulgated several amendments to the previously existing Ophthalmic Practice Rules (the "Eyeglasses I" rule), which requires optometrists and ophthalmologists to release eyeglass prescriptions to their patients. On August 28, 1990, the Court of Appeals for the D.C. Circuit vacated the Eyeglasses II rule, which would have removed state bans on commercial practice. *California State Board of Optometry* v. *FTC*, 910 F.2d 976 (D.C. Cir. 1990), *reh'g denied*, January 8, 1991. The court did not overturn the Commission's amendments to the Eyeglasses I prescription release rule, a rule which had previously been upheld by the court. *American Optometric Association* v. *FTC*, 626 F.2d 897 (D.C. Cir. 1980).

The Commission has amended the rule by removing the following sections of 16 CFR part 456: § 456.1(g) & (i), § 456.4, § 456.5(a), (b) and (d); and by redesignating § 456.1(h) and § 456.5(c) and 456.1(g) and 456.4 respectively.

Accordingly, 16 CFR part 456 is revised to read as follows:

PART 456—OPHTHALMIC PRACTICE RULES

Sec.
456.1 Definitions.
456.2 Separation of examination and dispensing.
456.3 Federal or State employees.
456.4 Declaration of Commission Intent.

Authority: 15 U.S.C. 57a; 5 U.S.C. 552.

§ 456.1 Definitions.

(a) A *patient* is any person who has had an eye examination.

(b) An *eye examination* is the process of determining the refractive condition of a person's eyes or the presence of any visual anomaly by the use of objective or subjective tests.

(c) *Ophthalmic goods* are eyeglasses, or any component of eyeglasses, and contact lenses.

(d) *Ophthalmic services* are the measuring, fitting, and adjusting of ophthalmic goods subsequent to an eye examination.

(e) An *ophthalmologist* is any Doctor of Medicine or Osteopathy who performs eye examinations.

(f) An *optometrist* is any Doctor of Optometry.

(g) A *prescription* is the written specifications for lenses for eyeglasses which are derived from an eye examination, including all of the information specified by state law, if any, necessary to obtain lenses for eyeglasses.

§ 456.2 Separation of examination and dispensing.

It is an unfair act or practice for an ophthalmologist or optometrist to:

(a) Fail to provide to the patient one copy of the patient's prescription immediately after the eye examination is completed. Provided: An ophthalmologist or optometrist may refuse to give the patient a copy of the patient's prescription until the patient has paid for the eye examination, but only if that ophthalmologist or optometrist would have required immediate payment from that patient had the examination revealed that no ophthalmic goods were required;

(b) Condition the availability of an eye examination to any person on a requirement that the patient agree to purchase any ophthalmic goods from the ophthalmologist or optometrist;

(c) Charge the patient any fee in addition to the ophthalmologist's or optometrist's examination fee as a condition to releasing the prescription to the patient. Provided: An ophthalmologist or optometrist may charge an additional fee for verifying ophthalmic goods dispensed by another seller when the additional fee is imposed at the time the verification is performed; or

(d) Place on the prescription, or require the patient to sign, or deliver to the patient a form or notice waiving or disclaiming the liability or responsibility of the ophthalmologist or optometrist for the accuracy of the eye examination or the accuracy of the ophthalmic goods and services dispensed by another seller.

§ 456.3 Federal or State employees.

This rule does not apply to ophthalmologists or optometrists employed by any Federal, State or local government entity.

§ 456.4 Declaration of Commission intent.

In prohibiting the use of waivers and disclaimers of liability in § 456.2(d), it is not the Commission's intent to impose liability on an ophthalmologist or optometrist for the ophthalmic goods and services dispensed by another seller pursuant to the ophthalmologist's or optometrist's prescription.

Donald S. Clark,

Secretary.

[FR Doc. 92-9947 Filed 4-30-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Issuance of Written Notices

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to the issuance of written notices concerning failure to file patent information and to comply with requirements pertaining to current good manufacturing practices and labeling for new drugs, new animal drugs, and feeds bearing or containing new animal drugs from the Commissioner of Food and Drugs to certain FDA officials. This action is being taken to make the process of issuing written notices more efficient.

EFFECTIVE DATE: May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: FDA is amending the delegations of authority by adding new § 5.38 issuance of written notices concerning patent information, current good manufacturing practices and false or misleading labeling of new drugs, new animal drugs, and feeds bearing or containing new animal drugs. Under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(e)), § 5.38 redelegates the Commissioner's authority regarding the issuance of written notices to the Director, Deputy Director, and other officials of the Center for Drug Evaluation and Research. Under sections 512(e) and 512 (m)(4)(B)(ii) and (m)(4)(B)(iii) of the act (21 U.S.C. 360b(e) and 360b (m)(4)(B)(ii) and (m)(4)(B)(iii)), the Commissioner's authority regarding the issuance of written notices is redelegated to the Director, Deputy Director, and other officials of the Center for Veterinary Medicine. These redelegations will make the process of issuing written notices more efficient.

Further redelegation of the authority is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 is revised to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261-1282, 3701-3711a; secs. 2-12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451-1461); 21 U.S.C. 41-50, 61-63, 141-149, 467f, 679(b), 801-886, 1031-1309; secs. 201-903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321-394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 361, 362, 1701-1706; 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u-300u-5, 300aa-1); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007-10008; E.O. 11490, 11921, and 12591.

2. New § 5.38 is added to subpart B to read as follows:

§ 5.38 Issuance of written notices concerning patent information, current good manufacturing practices and false or misleading labeling of new drugs, new animal drugs, and feeds bearing or containing new animal drugs.

(a) The following officials are authorized to perform all the functions of the Commissioner of Food and Drugs under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) regarding the issuance of written notices.

(1) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(2) The Director and Deputy Director, Office of Compliance, CDER.

(3) The Director and Deputy Director, Division of Drug Labeling Compliance, Office of Compliance, CDER.

(4) The Director and Deputy Director, Division of Manufacturing and Product Quality, Office of Compliance, CDER.

(5) The Director and Deputy Director, Division of Drug Quality Evaluation, Office of Compliance, CDER.

(6) The Director and Deputy Director, Division of Scientific Investigations, Office of Compliance, CDER.

(7) Regional Food and Drug Directors.

(8) District Directors.

(b) The following officials are authorized to perform all the functions of the Commissioner of Food and Drugs under sections 512(e) and 512 (m)(4)(B)(ii) and (m)(4)(B)(iii) of the act regarding the issuance of written notices.

(1) The Director and Deputy Director, Center for Veterinary Medicine (CVM).

(2) The Director and Deputy Director, Office of Surveillance and Compliance, CVM.

(3) The Director, Division of Compliance, Office of Surveillance and Compliance, CVM.

(4) Regional Food and Drug Directors.

(5) District Directors.

Dated: April 24, 1992.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 92-10191 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances Temporary Placement of Methcathinone Into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration (DEA) to temporarily place methcathinone into Schedule I of the Controlled Substances Act (CSA) pursuant to the emergency scheduling provisions of the CSA. This action is based on a finding by the DEA Administrator that the scheduling of methcathinone, at least on a temporary basis, is necessary to avoid an imminent hazard to the public safety. As a result of this rule, the regulatory controls and criminal sanctions imposed on Schedule I substances under the CSA will be applicable to the manufacture, distribution and possession of methcathinone.

EFFECTIVE DATE: May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: The Comprehensive Crime Control Act 1984 amended section 201 of the CSA (21 U.S.C. 811 et seq.) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA if it is found that such action is necessary to avoid an imminent hazard to the public safety. The Attorney General has delegated this authority under 21 U.S.C. 811 to the Administrator of the DEA (28 CFR 0.100). A substance may be temporarily scheduled pursuant to the emergency scheduling provisions of the CSA if that substance is not listed in any schedule under section 202 of the CSA (21 U.S.C. 812) or if there is no approval or exemption in effect under 21 U.S.C. 355 of the Food, Drug and Cosmetic Act for the substance.

A notice of intent to temporarily place methcathinone into Schedule I of the CSA was published in the **Federal Register** on March 16, 1992 (57 FR 9080). The Administrator transmitted notice of his intention to temporarily place methcathinone into Schedule I of the CSA to the Assistant Secretary for Health of the Department of Health and Human Services. In response to this notification, the Food and Drug Administration, by letter, has advised DEA that there are no exemptions or approvals in effect under 21 U.S.C. 355 of the Food, Drug and Cosmetic Act for methcathinone. The letter further stated that the Department of Health and Human Services has no objections to DEA's intention to temporarily place methcathinone into Schedule I of the CSA. No other comments were received regarding this matter.

Methcathinone, also called ephedrone or 2-methylamino-1-phenylpropan-1-one, is an N-monomethylated phenylisopropylamine that has a chemical structure similar to that of methamphetamine. Limited pharmacological data indicate that methcathinone produces amphetamine-like, psychomotor stimulant activity in laboratory animals.

Five clandestine laboratories producing methcathinone have been encountered. Methcathinone is sold on the street as a "legal" stimulant under the street name, "cat." It is distributed as a powdered material and is administered via nasal inhalation.

In accordance with 21 U.S.C. 811(h)(3), the Administrator has considered the following factors regarding methcathinone: (1) Its history and current pattern of abuse; (2) the scope, duration and significance of abuse; and (3) what, if any, risk there is to the public health.

Based on methcathinone's structural similarity to amphetamine and methamphetamine, its amphetamine-like central nervous system stimulant properties in animals, its clandestine production, distribution and abuse, the Administrator, pursuant to 21 U.S.C. 811(h) of the CSA and 28 CFR 0.100, finds that temporary placement of methcathinone into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety.

The following regulations are effective with respect to methcathinone on May 1, 1992, except that individuals registered with DEA in accordance with part 1301 or part 1311 of title 21 of the Code of Federal Regulations, who currently possess methcathinone may continue to do so pending DEA's receipt of an application for amended registration no later than June 1, 1992:

1. Registration. Any person who manufactures, distributes, engages in research, imports or exports methcathinone or who proposes to engage in the manufacture, distribution, importation or exportation of methcathinone or conduct research with methcathinone must be registered to conduct such activities in accordance with parts 1301 and 1311 of title 21 of the Code of Federal Regulations.

2. Security. Methcathinone must be manufactured, distributed and stored in accordance with §§ 1301.71–1301.76 of title 21 of the Code of Federal Regulations.

3. Labeling and Packaging. All labels and labeling for commercial containers of methcathinone must comply with the requirements of §§ 1302.03–1302.05, 1302.07 and 1302.08 of title 21 of the Code of Federal Regulations.

4. Quotas. All persons required to obtain quotas for methcathinone must submit applications pursuant to §§ 1303.12 and 1303.22 of title 21 of the Code of Federal Regulations.

5. Inventory. Registrants in possession of methcathinone are required to take inventories of all stocks of this substance on hand pursuant to §§ 1304.11–1304.19 of title 21 of the Code of Federal Regulations.

6. Records. All registrants required to keep records pursuant to §§ 1304.21–1304.27 of title 21 of the Code of Federal Regulations must do so regarding methcathinone.

7. Reports. All registrants engaged in the manufacture, packaging, labeling or distribution of methcathinone are required to submit reports in accordance with §§ 1304.35–1304.37 of title 21 of the Code of Federal Regulations.

8. Order Forms. Each distribution of methcathinone requires the use of an order form pursuant to §§ 1305.01–

1305.16 of title 21 of the Code of Federal Regulations.

9. Importation and Exportation. All importation and exportation of methcathinone must be in compliance with part 1312 of title 21 of the Code of Federal Regulations.

10. Criminal Liability. Any activity with methcathinone not authorized by or in violation of the CSA or the Controlled Substances Import and Export Act occurring on or after May 1, 1992 is unlawful.

The Administrator of the DEA hereby certifies that the temporary placement of methcathinone into Schedule I of the CSA will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This action involves the temporary control of a substance with no currently approved medical use or manufacture in the United States.

This final rule is not a major rule for the purposes of Executive Order 12291 (46 FR 13193) of February 17, 1981. It has been determined that drug scheduling matters are not subject to review by the Office of Management and Budget (OMB) pursuant to the provisions of Executive Order 12291. Accordingly, this emergency scheduling action is not subject to the provisions of Executive Order 12778 which are contingent upon review by OMB. This regulation both responds to an emergency situation posing an imminent danger to the public health and safety, and is essential to a criminal law enforcement function of the United States. Accordingly, it is not subject to the 90-day moratorium on regulations ordered by the President of the United States in his memorandum of January 28, 1992.

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612, and it has been determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(h) of the CSA (21 U.S.C. 811(h)), and delegated to the Administrator of DEA by Department of Justice regulations (28 CFR 0.100), the Administrator hereby amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871b, unless otherwise noted.

2. Paragraph (g)(3) is added to § 1308.11 to read as follows:

§ 1308.11 Schedule I

* * * * *

(g) * * *

(3) Methcathinone (Some other names: 2-Methylamino-1-Phenylpropan-1-one; Ephedrone; Monomethylpropion; UR 1431, its salts, optical isomers, and salts of optical isomers—1237.

Dated: April 23, 1992.

Robert C. Bonner,

Administrator, Drug Enforcement Administration.

[FR Doc. 92-10282 Filed 4-30-92; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

CGD1 92-007

Safety Zone Regulations: Kill Van Kull, NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in all waters in the area of Bergen Point in Newark Bay and the Kill Van Kull of New York and New Jersey. This zone will restrict traffic in the described area and prohibit traffic from transiting the work area in a portion of the channel at Bergen Point West Reach. In the work area, concentrated drilling and blasting will be conducted and no vessel is permitted to transit that section. In the remaining restricted area, vessel passage is permitted under the criteria set forth in this regulation. This action is necessary to protect the maritime community from the possible dangers and hazards to navigation associated with the extensive blasting and dredging operations which are being conducted in the work area of the channel.

EFFECTIVE DATE: This regulation becomes effective at 6 a.m., March 30, 1992. It terminates at 12 a.m., August 1, 1992, unless terminated sooner by Captain of the Port NY (COTP NY).

FOR FURTHER INFORMATION CONTACT: LTJG J. Peschel Captain of the Port, New York (212) 668-7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LTJG J. E. Peschel, Project Officer, Captain of the Port, New York and LCDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to any potential hazards. The request for this zone was not received until March 26, 1992. Therefore, there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

On August 8, 1991 this office submitted for publication a final rule which would impose a regulated navigation area (RNA) over the entire Kill Van Kull for the duration of a three year deepening project which is occurring throughout the Kill. When that rule is published it will appear as Part 165.165 of this Title (CGD1 89-065). To safeguard users of this waterway from hazards involved with this ongoing project, this safety zone establishes additional temporary restrictions both within and slightly beyond the boundaries of the RNA. These additional requirements specify mandatory check-in points for vessels nearing the work area, and require the employment of tugs when conducting certain operations during this most difficult phase of the project.

Background and Purpose

In August 1991, the Army Corps of Engineers (A.C.O.E.) and the Port Authorities of New York and New Jersey commenced an extensive channel deepening project in the Kill Van Kull and the Bergen Point area. This project reduces the available channel width by one half in the area of the worksite, from approximately 800 feet to 400 feet for the duration of the project.

In order to minimize the burden on the maritime community during this important and necessary dredging operation, the project is divided into phases. During each phase, blasting and dredging operations occur in only a small portion of the navigable channel. Limiting the size of the work area allows vessels to continue navigating the waterway with few, if any, restrictions, while providing the necessary level of safety and allowing the A.C.O.E. to

complete the project without undue delay.

Since August, the work area has shifted westward along Bergen Point Reach toward Shooters Island. Each time the work area moved, the Coast Guard established a safety zone around the work site. These safety zones were narrowly tailored to provide an adequate level of safety to vessels transiting the area while minimizing the restrictions imposed on vessel operations. In addition, throughout the blasting and dredging project the Coast Guard has consulted with the port community and kept them apprised of developments.

On March 26, 1992, the U.S. Army Corps of Engineers (A.C.O.E.) notified the Coast Guard that they were prepared on March 30th to begin operations in the area where Bergen Point Reach, Shooters Island Reach, and Newark Bay Reach converge. Under normal conditions the area available for maneuvering around Bergen Point, between Bergen Point Reach and Newark Bay Reach, is difficult to navigate. As a result of the dredging project, the area available for maneuvering has been significantly reduced, and makes the angle of turn greater for vessels proceeding from Bergen Point West Reach to Newark Bay Reach, thus making the area more difficult to navigate. The radius of turn for maneuvering around Bergen Point will be reduced from approximately 2700 feet to 900 feet which is a loss of 67%. The narrowest navigational channel will likewise be reduced to a mere 375 feet. Placing a work site near the confluence of the three waterways heightens the risk of a collision or grounding and a resulting pollution incident in this area. Therefore, it is imperative that the Coast Guard establish a new safety zone with temporary, additional restrictions on vessels transiting the new work site.

If the Coast Guard does not establish this new safety zone with its additional restrictions, the agency will be forced to curtail the planned A.C.O.E. dredging project. Such action would impose long term economic and logistical impacts on the port. The other option would involve issuing individual COTP orders to vessels to preclude them from navigating in the remaining navigable portion of the Kill Van Kull and redirecting traffic through the Arthur Kill. This solution would add delays and confusion, impose a significant financial burden to the maritime community, and further congest the narrow channel of the Arthur Kill. The new safety zone is temporary in nature, and will be in effect less than six months. It provides the minimum level of safety needed to protect users of the waterway from the dangers and hazards associated with the dredging and blasting operation while navigating in a heavily trafficked area.

In light of the unique hazards created by the location and dimensions of the new work area, the safety zone will consist of two areas. The first is the "Work Area" where blasting and dredging will occur and through which no traffic may transit unless authorized by COTP NY. The second is the area surrounding the Work Area, including the approaches and the waters typically used for making the turn from Newark Bay to the Kill Van Kull (or vice versa). This additional area allows vessels to set up for the turn and avoid congestion when passing around the "Work Area". Based on a recent CAORF port study and in light of several casualties which have occurred in this area, the Captain of the Port, New York has determined that certain vessels must employ assist tugs in order to improve their ability to safely make the turn around the worksite. The minimum number of assist tugs required will depend on the size and length of the vessel. This requirement affects only those vessels making the turn from the Kill Van Kull to Newark Bay (or vice versa). Vessels transiting directly from the Kill Van Kull to Arthur Kill (or vice versa) will not be burdened by the assist tug requirement. Also, vessel operators who do not wish to employ assist tugs have the additional option of choosing the south route by taking Arthur Kill to (or from) Newark Bay thus steering clear of the work area and avoiding the assist tug requirement.

This safety zone is established to reduce the risk of accidental groundings, collisions or pollution when transiting this congested area. The potential for an accident in this area was demonstrated recently with the grounding of the M/V American Eagle, the oil pollution from the grounding of the tug and barge M 35, and the blocked channel resulting from the M/V Wladyslaw Sikorski's grounding. Incidents of this type, which occurred when the area was not restricted, demonstrate the need for additional restrictions around the Work Area to ensure safe navigation of vessels transiting through the safety zone.

On February 13, 1992 the A.C.O.E. advised COTP NY that limited work would begin in a new work area as published in the **Federal Register** of February 28, 1992. The safety zone around that smaller area is cancelled upon the effective date and time of this new regulation. The new regulation expands the smaller safety zone, and adds additional restrictions to mariners transiting that area.

This new regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Regulatory Evaluation

These regulations are not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). In light of the area's limited size, temporary timeframe, and advance warning to the maritime community, the Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Because it expects the impact of this regulation to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, they will have no significant impact and they are categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 USC 1231; 50 USC 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5, 49 CFR 1.46.

2. A new 165.T 0107 is added to read as follows:

Section 165.T 0107 Safety Zone: Newark Bay, Kill Van Kull, Bergen Point—New York and New Jersey

(a) *Location.* (1) The followign area has been declared a Safety Zone: All waters of the Kill Van Kull Channel and Newark Bay South Reach in the vicinity of Bergen Point; east of the line drawn shore to shore along the 074°09'40" W line of longitude, west of a line drawn shore to shore along the 074°08'00" W line of longitude, and south of a line drawn shore to shore along the 40°39'17" N line of latitude.

(2) Within this safety zone exists a "Work Area" where concentrated drilling and blasting is being conducted. The "Work Area" includes all waters bounded by the following points:

Latitude	*Longitude*
40°38'36.6" N	074°09'04.6" W
40°38'33.4" N	074°08'54.8" W
40°38'33.6" N	074°08'43.0" W
40°38'29.3" N	074°08'41.8" W
40°38'29.2" N	074°08'43.6" W
40°38'30.8" N	074°08'58.6" W
40°38'35.7" N	074°09'06.2" W

thence to the point of the beginning.

KVK Channel Light Buoy 14 (LLNR 34585) has been initially relocated in approximate position 40°38'30" N 074°08'42" W and Newark Bay Channel Lighted Buoy 2 (LLNR 34630) will initially be located in approximate position 40°36'35.77" N 074°09'06.214" W to indicate the eastern and western boundaries, respectively, of the work area. However, these positions are approximate due to potential repositioning of the buoys. Mariners are advised to consult the Local Notice to Mariners for exact locations of the buoys.

(b) *Effective date.* This regulation becomes effective at 6 a.m., March 30, 1992. It terminates at 12 a.m., August 1, 1992, unless terminated sooner by COTP NY.

(c) *Regulations.*

(1) "Work Area": In accordance with the general regulations in § 165.23 of this part, entry into or movement within the "Work Area" of the safety zone is prohibited unless authorized by the Captain of the Port.

(2) For all other waters of the safety zone described in paragraph (a)(1):

(i) Each vessel transiting this zone is required to do so at minimum wake speed.

(ii) No vessel shall enter this zone when they are advised by the drilling barge or Vessel Traffic Service New York (VTSNY) that a misfire or hangfire has occurred. Vessels already underway in the zone shall proceed to clear the area immediately.

(iii) Vessels, 300 gross tons or greater and tugs with tows, are prohibited from meeting or overtaking in the Bergen Point West Reach when south of the "Work Area" between the lines of longitude at 74°09'06.2" W and 74°08'41.8" W, or when maneuvering around this area.

(iv) Vessels, 300 gross tons or greater and tugs with tows, transiting with the prevailing current are regarded as the stand-on vessel.

(v) Prior to entering this safety zone, the master, pilot, or operator of each vessel, 300 gross tons or greater and tugs with tows, shall notify VTSNY regarding the employment of assist tugs and intentions while transiting the safety zone.

(vi) Vessels between 350 and 700 feet in overall length must have at least one tug, and vessels of greater than 700 feet in overall length at least two tugs, assisting while transiting from the Kill Van Kull to Newark Bay (or vice versa) when making the turn at Bergen Point. The length refers to length over all (LOA). For tugs with tows length includes tow length.

(vii) For vessels towing astern, hawser or wire length must not exceed 100 feet for that tow. This length is measured from the towing bit on the towing vessel to the point where the hawser or wire connects with the vessel being towed.

Dated: 27 March 1992.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 92–9969 Filed 4–30–92; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL 4128–8]

California; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on application of California for final authorization, public hearing and public comment period.

SUMMARY: California has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed California's application and has made the tentative decision that California's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to grant final authorization to California to operate its program subject to the limitations on its authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. California's application for final authorization is available for public review and comment and a public hearing will be held to solicit comments on the application.

DATES: A public hearing is scheduled for 9 a.m., June 3, 1992. California will participate in the public hearing held by EPA on this subject. All comments on California's final authorization application must be received by the close of business on June 1, 1992.

ADDRESSES: Copies of California's final authorization application are available during 8 a.m. to 5 p.m. at the following addresses for inspection and copying:

- Department of Toxic Substances Control Headquarters Office, Technical Reference Library, 4th Floor, P.O. Box 806, Sacramento, CA 95812–0806, Phone: (916) 324–5696, Contact person: Florentino Castellon.
- U.S. EPA Region 9, Library, 13th floor, 75 Hawthorne St., San Francisco, CA 94105–3901, Phone: 415/744–1510; Contact person: Linda Sunnen.

A copy of California's final authorization application is available for inspection only during 9 a.m. to 4 p.m. at:

- U.S. EPA, Office of Solid Waste, The RCRA Docket, Room 2427, 401 M Street SW., Washington, DC 20460, Phone: (202) 260–9327.

Written comments should be sent to:

- Deirdre Nurre, H–2–3, California Project Officer, Environmental Protection Agency, 75 Hawthorne St., San Francisco, CA 94105; Phone: (415) 744–2106.

EPA will hold the public hearing at 75 Hawthorne St., first floor, California-Nevada Room, San Francisco, CA.

FOR FURTHER INFORMATION CONTACT: Deirdre Nurre, H–2–3, Program Development Section, EPA, 75 Hawthorne St., San Francisco, CA 94105; (415) 744–2106.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State

hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984 (HSWA). Two types of authorization may be granted. The first type, known as "interim authorization," is a temporary authorization which is granted if EPA determines that the State program is "substantially equivalent" to the Federal program (section 3006(c), 42 U.S.C. 6926(c)). Interim authorization is currently available only for requirements imposed pursuant to HSWA.

The second type of authorization is a "final" (permanent) authorization that is granted by EPA if the Agency finds that the State program (1) is "equivalent" to the Federal program, (2) is consistent with the Federal program and other State programs, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6926(b)). States need not have obtained interim authorization in order to qualify for final authorization. EPA regulations for interim or final State authorization appear at 40 CFR part 271.

B. California

California Department of Toxic Substance Control (until 1991, California Department of Health Services) was designated as the State Agency to receive RCRA grants and pursue Authorization in July 1980. California was granted Phase I interim authorization on June 4, 1981 and Phase IIA interim authorization, for tanks and containers only, on January 11, 1983. California did not apply for Phase IIB and IIC interim authorization.

To receive interim authorization for Phases I and II, California's program was required to be substantially equivalent to EPA's program. The State passed comprehensive hazardous waste management regulations and a statute incorporating RCRA regulations by reference; DTSC's requirements were similar, if not identical, to counterpart Federal requirements.

After soliciting public comments and holding a public hearing on June 6, 1985, California submitted an application for final authorization to EPA on November 7, 1985. The application reflected the Federal program that was in effect one year prior to California's submission, or on November 7, 1984. At this time, California was not seeking authorization for any portion of the 1984 Hazardous and Solid Waste Amendments to RCRA (HSWA). DTSC continued administering the RCRA program in those areas where it had received interim authorization.

EPA began analysis of DTSC statutes and regulations. By December 1986, it was determined that major changes to DTSC regulations would be needed prior to a final authorization decision.

Interim authorization for California expired on January 31, 1986, reverting the authority to administer and enforce the RCRA program back to EPA. In light of DTSC's active pursuit of final authorization, EPA Region 9 considered the program reversion to be temporary, and the two agencies entered into a short-term reversion agreement (Agreement) to minimize disruption and confusion to the regulated community. Upon reversion, EPA became the primary agency responsible for RCRA enforcement. However, DTSC continued to take RCRA-related enforcement actions under DTSC's existing State authority.

DTSC continued to pursue RCRA authorization, rewriting statutes and regulations using 40 CFR as a base document. DTSC established workgroups in June 1987 to review State statutes and regulations.

DTSC completed drafting authorization statutes by January 1988, and submitted them for review to EPA. After EPA review and comment, the statutes were put to a vote in the Assembly and Senate committees and on the floor of both houses during the period from May through August, 1988. By September, 1988, the Statutes were signed by the Governor of California. Thereafter, DTSC began its final internal review of the regulations and worked with EPA to resolve outstanding regulatory issues.

On December 20, 1991, California submitted an official application for final authorization. Prior to its submission, California solicited public comment and held a public hearing on its draft application. EPA has reviewed California's application, and has tentatively determined that the State's program meets all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization to California to operate its program subject to the authority retained by EPA under HSWA with the following exception. California's program submission included a provision addressing RCRA sections 3004(t)(2) and (3). Those provisions create a Federal cause of action for any person with a claim arising from conduct for which financial assurances are required under RCRA. This action may be asserted directly against the guarantor of the assurances if (1) the owner or operator of the facility is in bankruptcy or other similar proceedings under Federal law, or (2) the person with the claim is not likely to obtain jurisdiction over the facility owner/operator in either Federal or State court. The cause of action created by section 3004(t) is always available in Federal court and, therefore, is not delegable to States. States are welcome to create parallel causes of action viable in State courts, but to the extent that States do so, the State cause of action cannot limit the availability of the Federal action. Therefore, EPA does not propose to authorize California for this provision.

In accordance with section 3006 of RCRA and 40 CFR 271.20(d), the Agency will hold a public hearing on its tentative decision on June 3, 1992 at 9 a.m., 75 Hawthorne St., 1st Floor, California-Nevada Room, San Francisco, CA. The public may also submit written comments on EPA's tentative determination until June 1, 1992. Copies of California's application are available for inspection and copying at the location indicated in the "**ADDRESSES**" section of this notice.

EPA will consider all public comments on its tentative determination received at the hearing or during the public comment period. Issues raised by those comments may be the basis for a decision to deny final authorization to California. EPA expects to make a final decision whether to approve California's program by July 30, 1992 and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

EPA requires that an assessment of State capability to manage its hazardous waste program be completed prior to making a tentative determination. EPA Region 9 has reviewed and evaluated the California Department of Health and Safety program over recent years to determine the State's capability to implement a quality hazardous waste management program. This assessment is a necessary component of the final authorization decision process and is based on the State's performance as noted.

C. Effect of HSWA on California's Authorization

Prior to the Hazardous and Solid Waste Amendments to RCRA, a State with final authorization would have administered its hazardous waste program entirely in lieu of EPA. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent Federal

requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under the amended section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, HSWA applies in authorized States in the interim.

As a result of HSWA, there will be a dual State/Federal regulatory program in California if final RCRA authorization is granted. To the extent the authorized State program is unaffected by HSWA, the State program will operate in lieu of the Federal program. To the extent HSWA-related requirements are in effect, EPA will administer and enforce these portions of the HSWA in California until the State receives authorization to do so. As one result, Federal RCRA permits will be required for those programs for which the State is not yet authorized, such as Boilers and Industrial Furnaces.

Once the State is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal provision. Until that time the State may assist EPA's implementation of HSWA under a Cooperative Agreement.

Today's tentative determination only includes authorization of California's program for certain HSWA requirements. Any State requirement that is more stringent than a Federal HSWA provision will also remain in effect; thus, regulated handlers must comply with any more stringent State requirements.

EPA has published a **Federal Register** notice that explains in detail the HSWA and its effect on authorized States. That notice was published at 50 FR 28702–28755, July 15, 1985.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization effectively suspends the applicability of certain Federal regulations in favor of California's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 2, 1992.

Nora L. McGee,

Acting Regional Administrator.

[FR Doc. 92–10290 Filed 4–30–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 799

[OPPTS–42160; FRL 4056–2]

Substances and Mixtures Subject to Testing Consent Orders; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction of testing consent order table.

SUMMARY: EPA is republishing § 799.5000, which lists the substances and mixtures that are subject to testing consent orders. This republication will correct formating errors in the table, and add **Federal Register** citations for four chemicals that were inadvertently left out of the table at the time of **Federal Register** publication.

EFFECTIVE DATE: May 1, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION:

Periodically, EPA signs enforceable testing consent orders with manufacturers of chemical substances which require the manufacturers to conduct certain tests. These testing consent orders are announced in the **Federal Register**, and are listed in the table to § 799.5000. This document is republishing § 799.5000 to correct formatting errors. This document is also adding citations to the table for Mesityl Oxide, 4-Vinylcyclohexane, Sodium Cyanide and Acrylic Acid. The citations for these four chemicals were inadvertently left out of the table at the time of **Federal Register** publication.

This document is being published only to clear up any confusion as to the actual CAS No. and names of some of the chemicals listed in the table. No chemical substance is included in this table that has not already been announced in the **Federal Register**.

These corrections are not substantive and do not in anyway change any of the provisions agreed upon, in the signed consent orders.

Dated: April 23, 1992.

James B. Willis,

Acting Director, Existing Chemical Assessment Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR chapter I is amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is corrected to read as follows:

§ 799.5000 Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

This section sets forth a list of substances and mixtures which are the subject of testing consent orders adopted under 40 CFR part 790. Listed below in Chemical Abstract Service (CAS) Registry Number order are the substances and mixtures which are the subject of these orders and the **Federal Register** citations providing public notice of such orders.

CAS Number	Substance or mixture name	Testing	FR Publication Date
62-53-3	Aniline	Health effects	August 19, 1988.
		Environmental effects	August 19, 1988.
71-55-6	1,1,1-Trichloroethane	Health effects	August 23, 1989.
79-10-7	Acrylic Acid	Health effects	March 4, 1992
84-74-2	Di-*n*-butyl phthalate	Environmental effects	January 9, 1989.
84-75-3	Di-*n*-hexyl phthalate	Environmental effects	January 9, 1989.
		Chemical fate	January 9, 1989.
88-74-4	2-Nitroaniline	Health effects	August 19, 1988.
95-51-2	2-Chloroaniline	Health effects	August 19, 1988.
		Environmental effects	August 19, 1988.
95-76-1	3,4-Dichloroaniline	Health effects	August 19, 1988.
97-02-9	2,4-Dinitroaniline	Health effects	August 19, 1988.
99-30-9	2,6-Dichloro-4-nitro-aniline	Environmental effects	August 19, 1988.
100-01-6	4-Nitroaniline	Health effects	August 19, 1988.
100-40-3	4-Vinylcyclohexane	Health effects	September 23, 1991
		Chemical fate	September 23, 1991
106-47-8	4-Chloroaniline	Health effects	August 19, 1988.
112-35-6	Triethylene glycol monomethyl ether	Health effects	April 3, 1989.
112-50-5	Triethylene glycol monoethyl ether	Health effects	April 3, 1989.
117-81-7	Di-2-ethylhexyl phthalate	Chemical fate	January 9, 1989.
119-06-2	Ditridecyl phthalate	Chemical fate	January 9, 1989.
131-11-3	Dimethly phthalate	Environmental effects	January 9, 1989.
141-79-7	Mesityl oxide	Health effects	September 5, 1991
143-22-6	Triethylene glycol monobutyl ether	Health effects	January 9, 1989.
143-33-9	Sodium cyanide	Chemical fate	December 17, 1991
		Terrestrial effects	December 17, 1991.
328-84-7	3,4-Dichlorobenzotrifluoride	Environmental effects	June 23, 1987.
		Chemical fate	June 23, 1987.
556-57-2	Octamethylcyclo-tetrasiloxane	Chemical fate	January 10, 1989.
		Environmental effects	January 10, 1989.
1634-04-4	Methyl tert-butyl ether	Health effects	March 31, 1988.
3618-72-2	C.I. Disperse Blue 79:1 Acetamide,*N*-[5-[bis[2-(acetyloxy) ethyl]amino]-2-[(2-bromo-4, 6 dinitrophenyl) azo]-4-methoxyphenyl]-.	Health effects	November 21, 1989
		Environmental effects	November 21, 1989.
3648-20-2	Diundecyl phthalate	Environmental effects	January 9, 1989.
4170-30-3	Crotonaldehyde	Environmental effects	November 9, 1989.
		Chemical fate	November 9, 1989.
25550-98-5	Diisodecyl phenyl phosphite	Neurotoxic effects	February 24, 1989.
26761-40-0	Diisodecyl phthalate	Chemical fate	January 9, 1989.
68515-47-9	Ditridecyl phthalate (mixed isomers)	Chemical fate	January 9, 1989.
68515-49-1	Diisodecyl phthalate (mixed isomers)	Chemical fate	January 9, 1989.
68515-50-4	Dihexyl phthalate (mixed isomers)	Environmental effects	January 9, 1989.
		Chemical fate	January 9, 1989.
84852-15-3*	4-Nonylphenol, branched	Environmental effects	February 21, 1990
		Chemical fate	February 21, 1990

(Approved by the Office of Management and Budget under control number 2070-0033)

[FR Doc. 92-10239 Filed 4-30-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7538]

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATE: The effective date of each community's suspension is the

third date ("Susp.") listed in the fourth column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 is counties to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Minimal Conversions: Region V				
Michigan:				
Beaugrand, Township of, Cheboygan County	260646	Nov. 10, 1975, Emerg; May 1, 1992, Reg; May 1, 1992, Susp.	May 1, 1992	May 1, 1992.
Do.				
Haynes, Township of, Alcona County	260274	June 12, 1974, Emerg; May 1, 1992, Reg; May 1, 1992, Susp.	May 1, 1992	Do.
Regular Conversions: Region II				
New York:				
Newstead, Town of, Erie County	360251	July 18, 1975, Emerg; Nov. 19, 1980, Reg; May 4, 1992, Susp.	May 4, 1992	May 4, 1992.
Region IV				
Georgia:				
Athens, City of, Clarke County	130040	Dec. 5, 1973, Emerg; Sept. 15, 1978, Reg; May 4, 1992, Susp.	May 4, 1992	Do.

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Do.				
Gwinnett County, Unincorporated Areas	130322	Apr. 9, 1975, Emerg; June 15, 1981, Reg; May 4, 1992, Susp.	May 4, 1992	Do.
Region VI				
Oklahoma:				
Sallisaw, City of, Sequoyah County	400199	Jan. 3, 1974, Emerg; Jan. 2, 1980, Reg; May 4, 1992, Susp.	May 4, 1992	Do.
Region VII				
Missouri:				
Cass County, Unincorporated Areas	290783	Apr. 21, 1975, Emerg; Apr. 15, 1982, Reg; May 4, 1992, Susp.	May 4, 1992	Do.
Region I				
Connecticut:				
Ansonia, City of, New Haven County	090079	July 19, 1973, Emerg; Sept. 15, 1978, Reg; May 18, 1992, Susp.	May 18, 1992	May 18, 1992.
Region II				
New York:				
Perinton, Town of, Monroe County	360428	Aug. 13, 1973, Emerg; Sept. 29, 1978, Reg; May 18, 1992, Susp.	May 18, 1992	Do.
Do.				
Willsboro, Town of Essex County	360267	Oct. 15, 1976, Emerg; Mar. 18, 1987, Reg; May 18, 1992, Susp.	May 18, 1992	Do.
Region III				
Virginia:				
Stuart, Town of, Patrick County	510111	Aug. 6, 1974, Emerg; Sept. 1, 1978, Reg; May 18, 1992, Susp.	May 18, 1992	Do.
Do.				
Appomattox County, Unincorporated Areas	510011	Feb. 11, 1974, Emerg; July 17, 1978, Reg; May 18, 1992, Susp.	May 18, 1992	Do.
Do.				
Bedford County, Unincorporated Areas	510016	Jan. 16, 1974, Emerg; Sept. 29, 1978, Reg; May 18, 1992, Susp.	May 18, 1992	Do.
Region VII				
Iowa:				
Griswold, City of Cass County	190346	Oct. 26, 1976, Emerg; May 1, 1987, Reg; May 18, 1992, Susp.	May 18, 1992	Do.
Region IX				
Arizona:				
Yavapai County, Unincorporated Areas	040093	Jan. 31, 1975, Emerg; Sept. 18, 1985, Reg; May 18, 1992, Susp.	May 18, 1992	Do.

Code for reading fourth column: Emrg.-Emergency; Reg.-Regular; Susp.-Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: April 23, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-10223 Filed 4-30-92; 8:45 am]

BILLING CODE 6718-21-M

44 CFR Part 64

[Docket No. FEMA-7539]

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule:

SUMMARY: This rule identifies a community, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that is suspended on the effective date listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATE: The effective date of the community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The community listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the community will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in

the community. However, the community may submit the required documentation of the remedial measures taken after this rule is published but prior to the actual suspension date. The community will not be suspended and will continue its eligibility for the sale of insurance. A notice withdrawing the suspension of the community will be published in the **Federal Register.**

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in the community by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the FEMA's initial flood insurance map of the community as having flood-prone areas (sanction 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the community listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because the community listed in this final rule have been notified.

This community received a 90-day and two 30-day notifications addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Regular Conversions: Region IV				
Mississippi:				
Lauderdale County, Unincorporated Areas	280224	May 28, 1975, Emerg; September 29, 1989, Reg; May 4, 1992 Susp.	Sept. 29, 1989	May 4, 1992.

Code for reading fourth column: Emerg.-Emergency; Reg.-Regular; Susp.-Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: April 27, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-10064 Filed 4-30-92; 8:45 am]

BILLING CODE 6718-21-M

44 CFR Part 64

[Docket No. FEMA-7537]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 457, Lanham, MD 20706, (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street SW., room 417, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has

identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
NEW ELIGIBLES—Emergency Program:			
New Mexico: Torrance County, unincorporated areas	350133	Mar. 16, 1992	Apr. 11, 1978.
Texas: Crandall, city of, Kaufman County	480409	Mar. 12, 1992	May 21, 1976.
Alabama: Dora, city of, Walker County	010381	Mar. 20, 1992	Apr. 4, 1980.
Ohio: Arcanum, village of, Darke County	390684	do	Jan. 13, 1978.
Michigan: Richland, township of, Kalamazoo County	260885	Mar. 31, 1992	do.
NEW ELIGIBLES—Regular Program:			
Illinois: Minooka, village of, Grundy County	171019	Mar. 12, 1992	Sept. 16, 1988.
Kentucky: Hopkins County, unincorporated areas	210112	Mar. 16, 1992	Aug. 19, 1991.
Idaho: Meridian, city of, Ada County	160180	Mar. 20, 1992	Sept. 27, 1991.
North Carolina: Apex, town of Wake County	370467	do	Mar. 3, 1992.
REINSTATEMENTS—Regular Program:			
Pennsylvania: Brown, township of, Mifflin County	420683	Aug. 16, 1974, Emerg.; Aug. 19, 1991, Reg.; Aug. 19, 1991, Susp.; Mar. 13, 1992 Rein.	Aug. 19, 1991.
Ohio: Perrysville, village of, Ashland County	390730	April 6, 1976, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Mar. 13, 1992 Rein.	Aug. 1, 1987.
Maine: St. Francis, town of, Aroostook County	230183	Oct. 4, 1977, Emerg.; Dec. 4, 1985, Reg.; May 17, 1990, Susp.; Mar. 25, 1992 Rein.	Dec. 4, 1985.
Massachusetts: Holland, town of, Hampden County	250141	July 18, 1975, Emerg.; July 5, 1984, Reg.; July 5, 1984, Susp.; Mar. 31, 1992 Rein.	July. 5, 1984.
Region II:			
New York: Greenwich, town of, Washington County	361233	March 16. 1992, suspension withdrawn	Mar. 16, 1992.
Region III:			
West Virginia: Clarksburg, city of, Harrison County	540056	do	Mar. 16, 1992.
Region V:			
Ohio: Highland Heights, city of, Cuyahoga County	390110	do	Mar. 16, 1992.
Region IX:			
Nevada: Elko County, unincorporated areas	320027	do	Mar. 16, 1992.

Code for reading fourth column: Emerg.-Emergency; Reg.-Regular; Susp.-Suspension; Rein.-Reinstatement.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: April 23, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-10224 Filed 4-30-92; 8:45 am]

BILLING CODE 6718-21-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting further retention of Pacific ocean perch caught on any gear in the Central Regulatory area of the Gulf of Alaska (GOA) and is requiring that Pacific ocean perch be treated in the same manner as a prohibited species and discarded with a minimum of injury at sea. The intent of this action is to promote optimum use of groundfish while conserving Pacific ocean perch stocks.

EFFECTIVE DATE: From 12 noon, Alaska local time (A.l.t.) April 28, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone of the GOA under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.92 and parts 620 and 672.

The amount of a species or species group apportioned to a fishery is the total allowable catch (TAC) as defined at §§ 672.20(a)(2) and 672.20(c)(1). The final notice of 1992 initial specifications of groundfish established the Pacific ocean perch TAC in the Central Regulatory Area of the GOA at 1,561 metric tons (mt) (57 FR 2844, January 24, 1992).

The Regional Director has determined that the TAC for Pacific ocean perch in the Central Regulatory Area of the GOA has been taken. Therefore, under § 672.20(c)(3), NMFS is declaring that further catches of Pacific ocean perch in the Central Regulatory Area must be treated as a prohibited species and discarded under § 672.20(e) by vessels fishing in the Central Regulatory Area of the GOA after 12 noon, A.l.t., April 28, 1992.

Classification

This action is taken under 50 CFR 672.20, and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 28, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–10255 Filed 4–28–92; 3:07 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 57, No. 85
Friday, May 1, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 700

Definitions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed revision to regulation.

SUMMARY: The NCUA Board requests comments on proposed changes to our regulation defining "risk assets." The definition is used to determine federal and federally-insured state credit union reserve requirements.

Currently, all assets that have a remaining maturity of 3 years or less and are insured by, fully guaranteed as to principal and interest by, or due from the U.S. Government, its agencies, the Federal National Mortgage Corporation, the Government National Mortgage Association, or Federal Home Loan Mortgage Corporation are exempt from the definition of risk assets. The proposed change to this regulation would include in this exemption certain assets with maturities greater than 3 years which reset or reprice within 1 year from the date that the calculation of risk assets is made, subject to certain restrictions. The proposal also makes a clarification that the definition of risk assets includes loans as well as investments, but does not expand beyond items in 2, 3, 4, 5, 6, and 7 of the current regulation. Lastly, the proposal includes membership capital share deposits as a risk asset, regardless of their maturity.

DATES: Please comment on or before June 1, 1992.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: D. Michael Riley, Director, or Kimberly A. Iverson, Federal Program Officer, Office of Examination and Insurance at the above address, or telephone (202) 682–9640.

SUPPLEMENTARY INFORMATION:

Background

Section 116(a) of the Federal Credit Union Act (12 U.S.C. 1762(a)) (Act) requires that federal credit unions set aside a certain percentage of gross income at the end of each accounting period as a Regular Reserve. Paragraph 700.1(i) of the NCUA rules and regulations (12 CFR 700.1(i)) lists which assets are exempt from the reserve requirements (definition of risk assets). Section 741.9 of the NCUA Rules and Regulations states that federally insured state chartered credit unions must comply with the statutory reserve requirements. According to section 116 of the Act, the amount of reserve transfer is based on a two-tiered formula, according to the size or age of the credit union. This formula is based on the ratio of reserves to risk assets.

The NCUA Board has made the decision to review the inclusion of certain assets with maturities in excess of 3 years, where the interest rate resets or reprices at least annually. The interest rate risk associated with assets of this type is minimal and as such, these instruments should be excluded from risk assets if they meet certain criteria. To fall within the proposed exemption, assets must meet three criteria.

First, the interest rate must reset or reprice at least annually. The stated interest rate must be variable or adjustable.

Second, the current interest rate of the instrument must be less than the maximum allowable for that particular instrument. For instance, if the current interest rate is 5 percent and the maximum allowable for the instrument is 6 percent and final maturity is in 5 years, this asset would meet the second criterion. Conversely, if the current interest rate is 5 percent and the maximum allowable (cap) is 5 percent, the asset would not meet this criterion and would be included as a risk asset.

Finally, the interest rate must vary directly, not inversely, with the index upon which it is based. In addition, the interest rate may not reset as a multiple of the change in the related index. For instance, the instrument's interest rate cannot increase 200 basis points with a 200 basis point decrease in the index; nor could the interest rate reset by 200 basis points when the index changed by 100 basis points.

This rule will expand the number of assets which are exempt from the definition of risk assets, thereby reducing total risk assets. This will result in a corresponding increase in the reserves to risk asset ratio for many credit unions. The affect of the change will be to reduce the number of credit unions required to make transfers of gross income to regular reserves or reduce the amount of transfer for some credit unions.

This rule also clarifies that the definition of risk assets is not limited to investments, but includes any asset which meets the criteria; loans as well as investments. Therefore, the word "investments" is changed to "assets" in proposed paragraph (i)(15), and "assets" is also used in new proposed paragraph (i)(16).

In addition, it is our expectation that final changes to part 704 (Corporate Credit Unions) of the NCUA rules and regulations will be presented to the NCUA Board within the next several months. The Board has issued two proposed rules. (See 56 FR 11952 (3/21/91) and 56 FR 59224 (10/25/91).) These two proposed rules define Membership Capital Share Deposits (MCSD) accounts as capital to the corporate credit union (see proposed § 704.2) and, therefore, MCSD accounts are at risk for the depositing credit union. MCSD accounts are not currently authorized by these regulations. The proposed rules define MCSD accounts as accounts offered by corporate credit union which are established, at a minimum as 12-month notice accounts which are not subject to share insurance coverage by the National Credit Union Share Insurance Fund or other deposit insurers and, in the event of liquidation of the corporate credit union, is payable only after satisfaction of all other claims against the liquidation estate. These accounts, when authorized, will be included as risk assets for credit unions which carry the items as assets on their balance sheet.

As a minimum, credit unions with assets that may be exempt from inclusion as risk assets must adequately document and track them as required by full and fair disclosure requirements in § 702.3 of the NCUA Rules and Regulations. This is especially important in a rapidly rising interest rate

environment in which rate caps may be quickly reached or exceeded. At the time of each required reserve transfer, the credit union must document which assets are exempt.

On January 28, 1992, the President issued a memorandum entitled "Reducing the Burden of Government Regulation." In the memorandum the President urges federal agencies to review existing regulations with an eye toward reducing regulatory burden without risking safety and soundness. The affect of this rule change will be a reduction in reserve transfers that some credit unions are required to make. At the same time, the rule change entails no measurable increase in risk to the National Credit Union Share Insurance Fund or to credit unions or their members.

Regulatory Procedures

Regulatory Flexibility Act

The proposed change will eliminate including certain existing assets as risk assets for purposes of the reserve transfer. It is our belief that most small credit unions (under $1 million in assets) do not carry the assets affected. In addition, there is no economic burden imposed by the proposed change. Hence, the NCUA Board has determined and certified that the proposed amendment, if adopted, will not have a significant economic impact on a substantial number of small credit unions (primarily those under $1 million in assets). Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This proposed rule, if adopted, will impose no additional collection requirements; therefore, it need not be sent to the Office of Management and Budget for approval.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: "Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope."

The NCUA Board has considered the fact that this proposed rule will affect federally insured state-chartered credit unions (FISCUs) in the determination of reserve transfers. It does not impose any additional cost or burden on the states, nor does it affect the states' ability to discharge traditional state government functions. The benefits provided and protection afforded by the NCUSIF is the same for FISCUs as it is for federal credit unions. It is protection afforded through a federal system and the responsibility for administering that system lies with the NCUA Board. All federally insured credit unions, whether federal or state chartered, will be subject to the same requirements. The requirement for all federally insured credit unions is the same, i.e., reserve transfers in accordance with section 116 of the Federal Credit Union Act. The acts and requirement subject to this proposed rule have implications for the entire federally insured credit union system and its insurer and are not unique to only type of charter.

List of Subjects in 12 CFR Part 700

Credit unions, Reserve requirements, Risk assets.

By the National Credit Union Administration Board on April 23, 1992.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend its regulation as follows:

PART 700—[AMENDED]

1. The authority citation for part 700 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1757(6), and 1766.

2. a. Section 700.1(i)(7) is revised to read as follows:

§ 700.1 Definitions

* * * * *

(i) * * *

(7) Shares or deposits in a central or corporate credit union that have a remaining maturity of 3 years or less, other than Membership Capital Share Deposit accounts as defined in part 704. For purposes of defining risk assets a central or corporate credit union is defined as a credit union whose membership primarily consists of:

(i) Other credit unions organized under state or federal law,

(ii) Officials, committee members, and employees of any credit union organized under state or Federal law, or

(iii) Any combination of the categories described in subdivisions (i) and (ii) of this subparagraph.

* * * * *

§ 700.1 [Amended]

b. Current § 700.1(i)(17) is redesignated as paragraph (i)(18) and paragraph (i)(16) is redesignated as paragraph (i)(17).

c. Section 700.1(i) introductory text is republished and paragraph (i)(15) is revised to read as follows:

* * * * *

(i) For the purpose of establishing the reserves required by section 116 of the Federal Credit Union Act, all assets except the following shall be considered risk assets:

* * * * *

(15) Assets included in numbered items 2, 3, 4, 5, 6, and 7, with maturities greater than 3 years are exempt from risk assets if the asset is being carried on the credit union's records at the lower of cost or market, or are being marked to market value monthly.

* * * * *

d. Section 700.1(i)(16) is added to read as follows:

* * * * *

(16) Assets included in numbered items 2, 3, 4, 6, and 7, with remaining maturities greater than 3 years are exempt from risk assets provided they meet the following criteria, irrespective of whether or not the asset is being carried on the credit union's records at the lower of cost or market, or are being marked to market value monthly:

(i) The interest rate is reset at least annually.

(ii) The interest rate of the instrument is less than the maximum allowable interest rate for the instrument on the date of the required reserve transfer.

(iii) The interest rate of the instrument varies directly (not inversely) with the index upon which it is based and is not reset as a multiple of the change in the related index.

* * * * *

[FR Doc. 92-10137 Filed 4-30-92; 8:45 am]

BILLING CODE 7535-01-M

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12 CFR Part 701

Organization and Operations of Federal Credit Unions; Reimbursement, Insurance and Indemnification of Officials and Employees

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would permit federal credit unions (FCUs) to reimburse FCU officials for expenses related to travel costs for an official and one immediate family member, in accordance with written policies established by each FCU's board of directors. Payment of these costs would be conditioned upon a determination by

the board of directors that the payment was necessary or appropriate to carry out FCU official business and reasonable in amount in relation to the resources and financial condition of the FCU. The total amount of all such payments for each year would also be disclosed to the members.

DATES: Comments must be postmarked on or before June 30, 1992.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Robert M. Fenner, General Counsel, or Martin E. Conrey, Staff Attorney, Office of General Counsel, at the above address or telephone: (202) 682-9630.

SUPPLEMENTARY INFORMATION:

A. Background and Discussion

In accordance with its policy to review existing regulations every three years, the NCUA Board proposes an amendment to § 701.33 of its Rules and Regulations to allow FCUs to reimburse travel costs of officials and one immediate family member, under specified conditions. NCUA intends that the reimbursement permitted by this proposal would be discretionary on the part of an FCU board of directors, not mandatory. The proposal is not intended to foreclose an FCU board of directors from adopting a more stringent reimbursement policy, or from prohibiting such payments altogether. Such decisions would be left to the FCU board of directors, within the parameters of the rule.

The background of the proposal is important in understanding the issues upon which NCUA desires public comment. FCU officials serve without compensation, with the exception of one board officer who may be compensated as specified in each FCU's bylaws. 12 U.S.C. 1761a. No other official may receive compensation for performing the duties or responsibilities of the board or committee position held by that person. 12 CFR 701:33. Presently, § 701.33 of the NCUA Rules and Regulations allows payment by reimbursement to the official, or direct FCU payment to a third party, for reasonable and proper costs incurred by the official in carrying out the responsibilities of the position to which that person has been appointed or elected. No provision is made, however, for a family member accompanying the official.

Several months ago, NCUA staff was asked to rule on the issue of FCU reimbursement of spousal expenses when accompanying FCU officials on credit union business. In response, staff expressed the opinion, based on current law and regulations, that expenses of an official's spouse do not qualify as a proper business expense of an FCU, as there is no direct benefit to the FCU in having the official's spouse accompany the official on business trips or to credit union conferences. This reasoning was based in part on Internal Revenue Service ("IRS") interpretations regarding business expense tax deductions taken for spousal expenses. 26 U.S.C. 162, 26 CFR 1.162-2(c). Further, staff believed that payment of such expenses would be imputed as payment of prohibited compensation to FCU officials. This policy has been the focus of criticism by FCUs as being too restrictive.

In the absence of clear guidance in the FCU Act or NCUA's regulations on this issue, staff's analysis, and reliance on other federal law and regulations, is proper. Pursuant to its general rulemaking authority, however, NCUA has broad authority to interpret and implement the provisions of the FCU Act. In response to many requests for a change in this area, the NCUA Board proposes to amend § 701.33 to permit FCU boards of directors to reimburse officials for expenses related to travel costs for the official and an immediate family member. NCUA proposes to use the term "immediate family member" rather than "spouse" in order to provide greater flexibility to individual FCUs to determine the relationships that qualify for reimbursement. The term "members of their immediate families" has been used for several years by credit unions in connection with field of membership and chartering policy. NCUA has, without incident or controversy, allowed individual credit unions to define that term as deemed appropriate. NCUA proposes to use a similar approach here, so long as reimbursement, if any, is limited to one family member per official and the other conditions of the regulation are met. Further, it would not be necessary for an FCU to use the same definition for purposes of field of membership and reimbursement policies.

In order to pay or reimburse officials for these costs, certain basic conditions are proposed. First, reimbursements would need to be made in accordance with written policies established by the FCU's board of directors. Second, the FCU's board would approve each payment by a recorded vote. The board's approval would be based upon a determination that the payment is necessary or appropriate to carry out FCU official business and reasonable in amount in relation to the resources and financial condition of the FCU. Finally, all payments made to officials under this new authority would be disclosed in writing to the members of the credit union each year at the FCU's annual meeting or in its annual report.

NCUA anticipates that commenters may view the imposition of all three of these conditions—written policies, board approval, and annual disclosure—as imposing more levels of regulatory control than are needed. The conditions are proposed, however, in order to obtain a full range of comments. Comment is specifically requested on whether one or more of the conditions is unnecessary and, if so, what combination should remain in the final rule.

Although not proposing other amendments at this time, NCUA welcomes comments on other aspects of § 701.33. It should be noted that, in 1988, NCUA proposed a change that would allow reimbursement of volunteer officials for pay or leave actually lost due to attendance at board or committee meetings. (See 53 FR 4592, 2/19/1988.) This proposal was soundly rejected by commenters (see 53 FR 29640, 8/8/1988) and NCUA is not proposing such a change at this time. Commenters should feel free, however, to address this and other issues within the scope of § 701.33.

NCUA also solicits comment on whether it would be useful to provide regulatory guidance as to the meaning of other key phrases of the proposed rule:

1. "travel costs"—Expenses deductible under the regulations of the Internal Revenue Service may provide some guidance to FCUs. See 26 CFR 1.162-2 ("Traveling expenses include travel fares, meals and lodging, and expenses incident to travel * * *"). NCUA requests comment on whether FCUs should adopt some form of "reasonableness test" or "common business practice test" containing specific common examples of what does and does not meet such tests. Comment is requested on whether these issues should be addressed in the regulation itself, or, alternatively, be handled as a management decision of individual FCUs, subject to NCUA's supervisory oversight.

2. "necessary or appropriate in order to carry out the official business of the credit union"—This phrase would indicate the reimbursement is appropriate in order that the volunteer official may fulfill his or her responsibilities to the members in the effective management of the FCU. NCUA solicits comment regarding whether this phrase should be expanded, for example, to include the idea that the meeting or program attended by the volunteer official is

related to current or planned FCU operations and will enhance the FCU and the capability of the FCU volunteer official.

3. "reasonable in amount in relation to the resources and financial condition of the credit union"—This suggests that the reimbursement amount be limited to an amount which the FCU can afford while maintaining financial stability and capital. NCUA requests comment on whether certain FCUs should automatically be excluded from utilizing reimbursement policies for this reason, such as: FCUs that are rated at CAMEL 4 or 5; FCUs with negative earnings, declining or low capital, low liquidity, or in weakened financial condition; or FCUs receiving assistance under sections 116 or 208 of the FCU Act.

NCUA also solicits comment on the information to be included in written reimbursement policies. Such policies would presumably include a discussion of safety and soundness procedures, such as requirements for signed travel vouchers, documented receipts, disclosures of the consequences of filing incorrect or fraudulent claims, examples of reimbursable and nonreimbursable costs, maximum lodging and meal expenses, maximum number of trips for which accompaniment is permitted, proper reporting to the IRS, and whether travel to and from meetings is eligible for a reimbursement. NCUA welcomes comment on whether these items should be addressed in the regulation.

Pending the final outcome of this proposal, the NCUA will not take exception to FCU's reimbursement of an official's and one immediate family member's travel expenses as long as the reimbursements are made in accordance with policies established by the FCU's board of directors and the reimbursements do not raise safety and soundness concerns. NCUA cautions FCUs that this proposal has no effect on applicable IRS regulations regarding the reporting and taxing of any payments or reimbursements. For such information, NCUA recommends that FCUs consult their tax advisors or attorneys. NCUA further cautions FCUs that it will continue to take exception to reimbursements if it finds them excessive, unsubstantiated, or otherwise a violation of safety and soundness.

B. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). Preliminary analysis concerning the effect the proposed compensation rule will have on small credit unions indicates that no significant economic impact will result if the rule is promulgated in final form by the NCUA Board. Therefore, the NCUA Board has determined and certifies under the authority granted in 5 U.S.C. 605(b) that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

Proposed § 701.33(b)(2)(i) would require that reimbursement payments made to volunteer officials be in accordance with written policies established by the FCU board of directors. Proposed § 701.33(c)(1)–(3) would require that the minutes of FCU board of directors' meetings reflect the board's determination that such reimbursements are reasonable and necessary. Proposed § 701.33(c)(4) would require that the total of all such payments disbursed to officials for the previous year be disclosed in writing to all credit union members. These "reporting or recordkeeping requirements" are considered an "information collection request" under the Paperwork Reduction Act. Therefore, the NCUA must submit the information collection request to the Director, Office of Management and Budget (OMB), and provide certain information as described below.

The written reimbursement policy (section 701.33(b)(i)) is proposed to ensure that reimbursements are made in accordance with standards set in advance by the FCU board of directors and to enable examiners to easily verify compliance by comparing the policies to actual reimbursements made. The respondents to this paperwork requirement are FCU boards of directors. The estimated frequency, based on NCUA's previous experience, is one submission, to be updated intermittently as the policy is amended by the FCU's board of directors. On average, it should take each FCU two hours to draft the reimbursement policies.

The requirement for a vote (section 701.33(c)(1)–(3)] is proposed to ensure compliance with the proposed rule's requirements and to enable examiners to easily verify compliance by reviewing the FCU board's minutes. The respondents are FCU boards of directors. The estimated frequency, based on NCUA's previous experience, is one submission each year for each FCU. On average, it should take each FCU two hours for each response.

The annual meeting disclosure (section 701.33(c)(4)) is proposed to ensure that FCU members have complete information on amounts spent by their board of directors for travel of officials. The likely respondents are FCUs. The estimated frequency, as stated in the rule, is one submission each year for each FCU member. On average, it should take each FCU one-half hour for each response.

The information collection requirements in proposed §§ 701.33(b)(2)(i), 701.33(c)(1)–(3) and 701.33(c)(4) will be submitted to OMB for review under the Paperwork Reduction Act. Written comments and recommendations regarding the collection requirements and NCUA discussion of same should be forwarded directly to the OMB Desk Officer indicated below at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503. Attn: Gary Waxman.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The proposed regulation applies only to FCUs and therefore will not affect state interests.

List of Subjects in 12 CFR Part 701

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on April 23, 1992.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, 12 CFR Part 701 is amended as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789 and Public Law 101-73.

Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq., 42 U.S.C. 1861 and 42 U.S.C. 3601–3610.

2. Section 701.33(b)(2) (i) and (iii) is revised to read as follows:

§ 701.33 Reimbursement, Insurance, and Indemnification of Officials and Employees.

* * * * *

(b) * * *

(2) * * *

(i) Payment (by reimbursement to an official or direct credit union payment to a third party) for reasonable and proper costs incurred by an official in carrying out the responsibilities of the position to which that person has been elected or appointed, in accordance with written policies established by the board of directors, and subject to paragraph (c) of this section;

* * * * *

(iii) indemnification and related insurance consistent with paragraph (d) of this section.

* * * * *

3. In § 701.33, paragraph (c) is redesignated as paragraph (d) and a new paragraph (c) is added to read as follows:

* * * * *

(c) *Payment of costs.* Payment of costs incurred by an official in carrying out the responsibilities of the position to which that person has been elected or appointed may properly include the payment of travel costs for an official and one immediate family member. Payments made pursuant to this paragraph are subject to the following conditions:

(1) the payment has been approved by a recorded vote of the board of directors that is noted in the official board minutes;

(2) the payment has been determined by the board of directors to be necessary or appropriate in order to carry out the official business of the credit union;

(3) the payment has been determined by the board of directors to be reasonable in amount in relation to the resources and financial condition of the credit union; and

(4) the total of all such payments disbursed to officials for the previous year must be disclosed in writing to all credit union members at the annual meeting or in the annual report of the credit union.

* * * * *

[FR Doc. 92–10136 Filed 4–30–92; 8:45 am]
BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–44–AD]

Airworthiness Directives; Airbus Industrie Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to Airbus Industrie Model A300–600 series airplanes. This proposal would require repetitive high frequency eddy current (HFEC) inspections to detect cracks in the center spar sealing angles adjacent to the pylon rear attachment, cold work, and replacement of any cracked parts, if necessary. This proposal is prompted by reports of cracks in the vertical web of the center spar sealing angles of the wing. The actions specified by the proposed AD are intended to prevent crack formation in the sealing angles; such cracks could rupture, and lead to subsequent crack formation in the bottom skin of the wing, resulting in reduced structural integrity of the center spar section.

DATES: Comments must be received by June 22, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–44–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM–113; telephone (206) 227–2140; fax (206) 227–1320. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–44–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–44–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Airbus Industrie Model A300–600 series airplanes. The DGAC advises that a case has been reported of cracks found in the vertical web of the center spar sealing angles of the wing. During full-scale fatigue testing, a crack was discovered in the vertical web of a center spar sealing angle, adjacent to Rib 8, at approximately 45,000 simulated flights. At 72,000 flights, another crack was found in a sealing angle of the opposite wing. Testing established that cracking initiated in the vertical web of the sealing angles. This condition, if not corrected, could result in similar crack formation on the sealing angles; such cracks could rupture, and lead to subsequent crack formation in the bottom skin of the wing, resulting in

reduced structural integrity of the center spar section.

Airbus Industrie has issued Service Bulletin A300-57-6027, dated October 8, 1991, that specifies procedures for repetitive high frequency eddy current (HFEC) inspections of the center spar sealing angles adjacent to the pylon rear attachment, cold work, and replacement of any cracked parts, if necessary. The DGAC classified this service bulletin as mandatory and issued French Airworthiness Directive 91-253-128(B) in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the French DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the French DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive high frequency eddy current (HFEC) inspections of the center spar sealing angles adjacent to the pylon rear attachment to detect cracks, cold work, and replacement of any cracked parts, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously. Additionally, operators would be required to report findings of cracks to the manufacturer. These reports will enable the manufacturer to obtain information as to the status of the in-service fleet; such information will aid in the development of a permanent corrective action.

The FAA estimates that 30 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $19,800.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

Section 39.13—[Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 92-NM-44-AD.

Applicability: Model A300-600 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the center spar section of the wing, accomplish the following:

(a) Prior to the accumulation of 14,000 landings, or within 500 landings after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 6,000 landings; perform a high frequency eddy current (HFEC) inspection to detect cracks in the center spar sealing angles adjacent to Rib 8, in accordance with Airbus Industrie Service Bulletin No. A300-57-6027, dated October 8, 1991.

(b) If any cracks are found as a result of the inspection required by paragraph (a) of this AD, prior to further flight, replace the pair of sealing angles on the affected wing and cold work the attachment holes, in accordance with Airbus Industrie Service Bulletin No. A300-57-6027, dated October 8, 1991.

(c) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, submit a report of inspection findings to Airbus Industrie, in accordance with Airbus Industrie Service Bulletin No. A300-57-6027, dated October 8, 1991. Report all findings, including nil defects to: Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 22, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-10204 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-65-AD]

Airworthiness Directives; Boeing Model 767-200 and 767-300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767-200 and 767-300 series airplanes. This proposal would require inspections to detect disbonding of the trailing edge wedges on the leading edge slats, and repair, if necessary. This proposal is prompted by reports of wedge damage or disbonding. In two cases, the damage resulted in loss of a portion of the slat wedges. The actions specified by the proposed AD are intended to prevent separation of the slat wedges, which could adversely affect controllability of the airplane.

DATES: Comments must be received by June 22, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-65-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Satish Pahuja, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2781; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-65-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-65-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion: Eleven operators of Boeing Model 767-200 and -300 series airplanes have reported damage to the trailing edge wedges on the leading edge slats or disbonding on 26 airplanes of the affected design. Two of the incidents resulted in loss of a portion of the slat wedges. The damaged airplanes had between 1,114 and 10,495 flight cycles and between 2,172, and 20,351 flight hours. Wedge separation has occurred at 5,748 flight cycles (17,473 flight hours) and at 6,816 flight cycles (20,351 flight hours). The damage was caused by moisture entering the slat core and subsequently causing corrosion in the core. Loss of slat wedges, if not corrected, could result in reduced maneuver margins, reduced speed margins to stall, and unexpected roll before stall warning; this would adversely affect the controllability of the airplane.

On the latest slat wedges installed on airplanes in production, all of the slat wedges have been sealed in order to prevent moisture from seeping into the core and subsequently leading to corrosion.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-57A0039, dated April 9, 1992, which describes procedures for visual and "Coin-Tap" inspections to detect disbonding of the trailing edge wedges on the leading edge slats, and repair, if necessary. The service bulletin refers to the Model 767 Structural Repair Manual for repair instructions.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require visual and "Coin-Tap" inspections to detect disbonding of the trailing edge wedges on the leading edge slats, and repair, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Slat wedge damage and potential wedge separation is a gradual process. Serious wedge separation has occurred at approximately 17,000 flight hours; however, significant damage can be detected much earlier. Therefore, the FAA proposes a two-tier compliance time to provide for the initial inspection of the slat wedges for damage at the earliest practical point; the initial compliance time represents a period long before a serious unsafe condition could occur, but at a point where wedge damage can occur.

The requirements of this proposal are considered interim action until final action is identified, at which time the FAA may consider further rulemaking.

There are approximately 450 Boeing Model 767-200 and -300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 279 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $122,760 or $440 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 92-NM-65-AD.

Applicability: Model 767-200 and 767-300 series airplanes; as listed in Boeing Alert Service Bulletin 767-57A0039, dated April 9, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the trailing edge wedges of the leading edge slats from the airplane, accomplish the following:

(a) Perform a visual and "Coin-Tap" inspection of the trailing edge wedges of the leading edge slats, in accordance with Boeing Alert Service Bulletin 767-57A0039, dated April 9, 1992, and in accordance with the schedule specified in subparagraph (a)(1) or (a)(2) of this AD, as applicable:

(1) For airplanes that have accumulated less than 8,000 flight hours as of the effective date of this AD, accomplish the initial inspection prior to the accumulation of 10,000 flight hours, or within 4,000 flight hours after the effective date of this AD, whichever occurs later. Thereafter, repeat the inspections at intervals not to exceed 4,000 flight hours.

(2) For airplanes that have accumulated 8,000 or more flight hours as of the effective date of this AD, accomplish the initial inspections prior to the accumulation of 12,000 flight hours or within 1,000 flight hours after the effective date of this AD, whichever occurs later. Thereafter, repeat the inspections at intervals not to exceed 4,000 flight hours.

(b) If damage is detected, as a result of the inspections required by paragraph (a) of this AD, prior to further flight, repair the slat wedges, in accordance with Boeing Alert Service Bulletin 767-57A0039, dated April 9, 1992.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 22, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-10202 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-NM-63-AD]

Airworthiness Directives; British Aerospace Model BAC 1-11-200 and -400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Model BAC 1-11-200 and -400 series airplanes. This proposal would require repetitive inspections to detect cracks in the top and bottom corners of the passenger and service door apertures, and repair, if necessary. This proposal is prompted by recent reports of fatigue cracks in the fuselage skins at the top and bottom corners of the passenger and service door apertures. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the fuselage pressure vessel.

DATES: Comments must be received by June 16, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-63-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-63-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-63-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion: The United Kingdom Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Model BAC 1-11-200 and -400 series airplanes. The CAA advises that there have been recent reports of fatigue cracks in the fuselage skins at the top and bottom corners of the passenger and service door apertures. This condition, if not corrected, could result in reduced structural integrity of the fuselage pressure vessel.

British Aerospace has issued Alert Service Bulletin 53-A-PM5989, Issue No. 1, dated October 3, 1991, which describes procedures for repetitive visual, dye penetrant, or eddy current inspections to detect cracks in the top and bottom corners of the passenger and service door apertures. The CAA classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral

airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive inspections to detect cracks in the top and bottom corners of the passenger and service door apertures, and repair, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously. The initial and repetitive inspection compliance times would vary, depending upon the configuration of the airplane.

The FAA estimates that 70 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $15,400.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 92-NM-63-AD.

Applicability: Model BAC 1-11-200 and -400 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent reduced structural integrity of the fuselage pressure vessel, accomplish the following:

(a) For airplanes operated up to a maximum cabin pressure differential of 7.5 pounds per square inch, accomplish the following in accordance with British Aerospace Alert Service Bulletin 53-A-PM5989, Issue No. 1, dated October 3, 1991:

(1) For airplanes to pre-modification PM51: Prior to the accumulation of 20,000 landings, or within 1,000 landings after the effective date of this AD, whichever occurs later; and thereafter at intervals specified below; perform a close visual, dye penetrant, or eddy current inspection to detect cracks in the top and bottom corners of the passenger and service door apertures, in accordance with the service bulletin.

(i) If the immediately preceding inspection was performed using a close visual inspection technique, the next inspection must be performed within 1,600 landings, in accordance with the service bulletin.

(ii) If the immediately preceding inspection was performed using a dye penetrant technique, the next inspection must be performed within 3,200 landings, in accordance with the service bulletin.

(iii) If the immediately preceding inspection was performed using an eddy current technique, the next inspection must be performed within 5,000 landings, in accordance with the service bulletin.

(2) For airplanes to post-modification PM51: Prior to the accumulation of 30,000 landings, or within 1,200 landings after the effective date of this AD, whichever occurs later; and thereafter at intervals specified below; perform a close visual inspection, dye penetrant, or eddy current inspection to detect cracks in the top and bottom corners of the passenger and service door apertures, in accordance with the service bulletin.

(i) If the immediately preceding inspection was performed using a close visual inspection technique, the next inspection must be performed within 1,600 landings, in accordance with the service bulletin.

(ii) If the immediately preceding inspection was performed using a dye penetrant technique, the next inspection must be performed within 3,200 landings, in accordance with the service bulletin.

(iii) If the immediately preceding inspection was performed using an eddy current technique, the next inspection must be performed within 5,000 landings, in accordance with the service bulletin.

(3) For airplanes repaired in accordance with Structural Repair Manual Chapter 53-02-0, Figure 74: Prior to the accumulation of 20,000 landings (for airplanes to pre-modification PM51), or prior to the accumulation of 30,000 landings (for airplanes to post-modification PM51), from the date of installation of the repair; or within 1,000 landings after the effective date of this AD, whichever occurs later; and thereafter at intervals specified below; perform a close visual inspection, dye penetrant, or eddy current inspection to detect cracks of the fuselage skin repair plates at the passenger and service door apertures, in accordance with the service bulletin.

(i) If the immediately preceding inspection was performed using a close visual inspection technique, the next inspection must be performed within 1,600 landings, in accordance with the service bulletin.

(ii) If the immediately preceding inspection was performed using a dye penetrant technique, the next inspection must be performed within 3,200 landings, in accordance with the service bulletin.

(iii) If the immediately preceding inspection was performed using an eddy current technique, the next inspection must be performed within 5,000 landings, in accordance with the service bulletin.

(b) For airplanes operated at a cabin pressure differential in excess of 7.5 pounds per square inch, but not exceeding 8.2 pounds per square inch, accomplish the following in accordance with British Aerospace Alert Service Bulletin 53-A-PM5989, Issue No. 1, dated October 3, 1991:

(1) For airplanes to pre-modification PM51: Prior to the accumulation of 14,000 landings, or within 1,000 landings after the effective date of this AD, whichever occurs later; and thereafter at intervals specified below; perform a close visual inspection, dye penetrant, or eddy current inspection to detect cracks in the top and bottom corners of the passenger and service door apertures, in accordance with the service bulletin.

(i) If the immediately preceding inspection was performed using a close visual inspection technique, the next inspection must be performed within 1,100 landings, in accordance with the service bulletin.

(ii) If the immediately preceding inspection was performed using a dye penetrant technique, the next inspection must be performed within 2,250 landings, in accordance with the service bulletin.

(iii) If the immediately preceding inspection was performed using an eddy current technique, the next inspection must be performed within 3,500 landings, in accordance with the service bulletin.

(2) For airplanes to post-modification PM51: Prior to the accumulation of 20,000

landings, or within 1,000 landings after the effective date of this AD, whichever occurs later; and thereafter at intervals specified below; perform a close visual, dye penetrant, or eddy current inspection to detect cracks in the top and bottom corners of the passenger and service door apertures, in accordance with the service bulletin.

(i) If the immediately preceding inspection was performed using a close visual inspection technique, the next inspection must be performed within 1,100 landings, in accordance with the service bulletin.

(ii) If the immediately preceding inspection was performed using a dye penetrant technique, the next inspection must be performed within 2,250 landings, in accordance with the service bulletin.

(iii) If the immediately preceding inspection was performed using an eddy current technique, the next inspection must be performed within 3,500 landings, in accordance with the service bulletin.

(3) For airplanes repaired in accordance with Structural Repair Manual Chapter 53-02-0, Figure 74: Prior to the accumulation of 10,000 landings (for airplanes to pre-modification PM51), or prior to the accumulation of 15,000 landings (for airplanes to post-modification PM51), from the date of installation of the repair; or within 500 landings after the effective date of this AD, whichever occurs later; and thereafter at intervals specified below; perform a close visual, dye penetrant, or eddy current inspection to detect cracks of the fuselage skin repair plates at the passenger and service door apertures, in accordance with the service bulletin.

(i) If the immediately preceding inspection was performed using a close visual inspection technique, the next inspection must be performed within 1,100 landings, in accordance with the service bulletin.

(ii) If the immediately preceding inspection was performed using a dye penetrant technique, the next inspection must be performed within 2,250 landings, in accordance with the service bulletin.

(iii) If the immediately preceding inspection was performed using an eddy current technique, the next inspection must be performed within 3,500 landings, in accordance with the service bulletin.

(c) If cracks are found as a result of any inspection required by paragraphs (a) or (b) of this AD, prior to further flight, repair any cracks found; and inspect the door surround structure for associated damage, and, prior to further flight, repair any damage found; in accordance with British Aerospace Alert Service Bulletin 53-A-PM5989, Issue No. 1, dated October 3, 1991.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 16, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-10200 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-53-AD]

Airworthiness Directives; British Aerospace Model BAe 146-100A, -200A, and -300A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the supersedure of an existing airworthiness directive (AD), applicable to all British Aerospace Model BAe 146-100A, -200A, and -300A series airplanes, that currently requires a detailed visual inspection to detect cracks and corrosion in the left and right main landing gear (MLG) door rear hinge bracket assemblies, and repair of corrosion or replacement of brackets, if necessary. This action would extend the threshold for the initial inspection and would require repetitive visual inspections. This proposal is prompted by results of a review of initial inspection findings conducted by the manufacturer, which revealed that the threshold for the inital inspection may be extended, and that repetitive inspections must be conducted in order to detect cracks and corrosion in a timely manner. The actions specified by the proposed AD are intended to prevent in-flight separation of a landing gear door from the airplane.

DATES: Comments must be received by June 16, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANMp103, Attention: Rules Docket No. 92-NM-53-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested person are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-53-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-53-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

On June 18, 1991, the FAA issued AD 91-14-19, Amendment 39-7060 (56 FR 30314, July 2, 1991), to require a detailed visual inspection to detect cracks and corrosion in the left and right main landing gear (MLG) door rear hinge bracket assemblies, and repair of corrosion or replacement of brackets, if necessary. That action was prompted by reports of cracked and corroded rear

hinge bracket assemblies discovered on British Aerospace Model BAe 146 series airplanes. The requirements of that AD are intended to preclude the MLG door from becoming detached in flight.

Since the issuance of that AD, the manufacturer has conducted a review of the initial inspection findings, which revealed that the initial inspection may be extended from the required 6,000 landings to 9,000 landings. Additionally, the inspection must be conducted repetitively at 3,000 landings in order to detect corrosion and cracking in a timely manner.

Consequently, British Aerospace has issued Inspection Service Bulletin 32-A119, Revision 1, dated December 2, 1991, that describes procedures for repetitive visual inspections of the left and right MLG door rear hinge bracket assemblies for cracks or corrosion; repair or replacement of cracked hinge brackets; and removal of corrosion. The United Kingdom Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 91-14-19 to extend the compliance threshold for the initial visual inspection of the left and right MLG door rear hinge bracket assemblies to 9,000 landings. Repetitive inspections would be required thereafter at intervals of 3,000 landings. Repair or replacement of cracked hinge brackets, and removal of corrosion, would be required, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 74 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,070.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national govenment and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26,1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 Amended

Section 39.13 is amended by removing amendment 39-7060 (56 FR 30314, July 2, 1991), and by adding a new airworthiness directive (AD), to read as follows:

British Aerospace: Docket 92-NM-53-AD. Supersedes AD 91-14-19, Amendment 39-7060.

Applicability: Model BAe 146-100A, -200A, and -300A series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent in-flight separation of a landing gear door from the airplane, accomplish the following:

(a) Prior to the accumulation of 9,000 landings, or within 30 days after the effective date of this AD; or if previously inspected in accordance with AD 91-14-19 (56 FR 30314, July 2, 1991), within 3,000 landings after the last inspection in accordance wtih that AD; whichever occurs later; and thereafter at intervals not to exceed 3,000 landings; accomplish the following:

(1) Perform a visual inspection of the left and right main landing gear (MLG) door rear hinge bracket assemblies to detect cracks and/or corrosion, in accordance wtih British Aerospace Inspection Service Bulletin 32-A119, Revision 1, dated December 2, 1991.

(2) Prior to further flight, replace any cracked hinge bracket with a serviceable part, in accordance with British Aerospace Inspection Service Bulletin 32-A119, Revision 1, dated December 2, 1991; or temporarily repair cracked brackets in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(3) Prior to further flight, remove any corrosion found, in accordance with the British Aerospace Model 146 Structural Repair Manaul, and accomplish the following:

(i) If less than 0.100 inch of corrosion was removed, re-protect the hinge bracket in accordance with the maintenance manual; and obtain a life limit for the hinge bracket from the Manager, Standarization Branch, ANM-113, FAA, Transport Airplane Directorate.

(ii) If 0.100 inch, but less than 0.150 inch, of corrosion was removed, re-protect the hinge bracket in accordance with the maintenance manual; and, within 300 landings after accomplishing the re-protection procedure, replace the hinge bracket with a new part.

(iii) If 0.150 inch or more of corrosion was removed, prior to further flight, replace the hinge bracket with a new part.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Mainenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 16, 1992.

Darrell M. Pederson,

Acting Manger, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-10199 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 39]

[Docket No. 92-NM-25-AD]

Airworthiness Directive; Dassault Aviation Model Fan Jet Falcon Basic, Series, D, E, and F Airplanes; and Model Mystere-Falcon 20-C5, D5, E5, and F5 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dassault Aviation Model Fan Jet Falcon and Model Mystere-Falcon 20 series airplanes. This proposal would require supplemental structural inspections, and repair or replacement, as necessary, to ensure continued airworthiness of these airplanes. Some Model Fan Jet Falcon and Model Mystere-Falcon 20 series airplanes are approaching or, in some cases, have exceeded the manufacturer's original design goal. This proposal is prompted by a structural reevaluation, which has identified certain significant structural components to inspect for fatigue cracks as these airplanes approach and exceed the manufacturer's original design life. The actions specified by the proposed AD are intended to prevent reduced structural integrity of these airplanes.

DATES: Comments must be received by June 22, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-25-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Falcon Jet Corporation, Customer Support Department, Teterboro Airport, Teterboro, New Jersey 07608. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (202) 227-2140; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are sepcifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-25-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-25-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

A significant number of transport category airplanes are approaching their design life goal. It is expected that these airplanes will continue to be operated beyond this point. The incidents of fatigue cracking on these airplanes is expected to increase as airplanes reach and exceed this goal. In order to evaluate the impact of increased fatigue cracking with respect to maintaining the safe design of the Dassault Aviation Model Fan Jet Falcon and Model Mystere-Falcon 20 airplane structures, the manufacturer has conducted a structural reassessment of these airplanes using engineering evaluation techniques. The criteria for this reassessment are contained in FAA Advisory Circular (AC) 91-56, "Supplemental Structural Inspection Program for Large Transport Category Airplanes."

In response to AC 91-56, Dassault Aviation initiated the development of a Supplemental Structural Integrity Program (SSIP) for the Model Fan Jet Falcon and Model Mystere-Falcon 20 series airplanes, and coordinated their efforts with the operators of these airplanes. Advisory Circular 91-56 promotes the preparation and approval of a criteria document for such a program. Dassault Aviation developed criteria and guidelines for: (a) Selecting the major areas of the structure, identified as significant structural items (SSI), which are candidates for supplemental inspection by using the latest engineering analysis techniques; and (b) analyzing existing inspection programs. This SSIP is a supplement to the current normal maintenance inspection programs to detect fatigue damage, and provides detailed non-destructive inspection (NDI) procedures to supplement the operators' existing inspection programs, as necessary. The program was established on evaluation of full scale and/or detailed tests and/or calculations and/or service experience. The document's purpose is to maintain the structural integrity of the Model Fan Jet Falcon and Model Mystere-Falcon 20. It specifies the requirements for known and anticipated defects associated with fatigue, corrosion, stress corrosion, accidental damage, or manufacturing defects.

Dassault aviation has issued Fan Jet Falcon Service Bulletin FJF-00-26 (FJF-730), Revision 1, dated December 12, 1990, that describes procedures for implementing a SSIP. The service bulletin provides information addressing retirement lives, stress analysis, and fatigue inspections. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified this service bulletin as mandatory and issued French Airworthiness Directive 90-089-020(B) in order to assure the continued airworthiness of these airplanes in France.

The SSIP is based on Model Fan Jet Falcon and Model Mystere-Falcon 20 current usage, durability assessment of the structure using current analysis techniques, and selection of the current (NDI) methods. In order to implement the SSIP, each operator must compare its current structural maintenance program to the SSIP requirements. If the current inspections equal or exceed the SSIP requirements, no supplemental inspections would be required for that area under the SSIP. However, if the opposite is true, supplemental inspections in the form of more frequent inspections or more sensitive NDI

methods, or both, would be necessary in addition to the operator's normal maintenance program.

Since the emphasis of the SSIP is on aging aircraft, the inspection program emphasis is on the high time aircraft population. The data and flight hours (or landings) at which modification or replacement is made would be required to be reported by the operator to the manufacturer for each applicable airplane by fuselage number and/or factory serial number. That particular configuration is then evaluated by Dassault Aviation. The inspection threshold and interval will be established, and changes, if needed, would be published in the next revision of the SSIP.

Inspection Program

The expected fatigue life of each significant item (SSI) is determined by a demonstrated life, either by service experience or by analysis. The time when the supplemental inspections are to begin or be completed is determined from the expected fatigue life and crack propagation characteristics of each SSI. All inspections are to be accomlished before the airplane exceeds the fatigue life threshold. Cracked structures detected during inspections required by this Airworthiness Directive must be repaired or replaced, prior to further flight, in accordance with the instructions in Dassault Aviation Fan Jet Falcon Service Bulletin FJF-00-26 (FJF-730), Revision 1, dated December 12, 1990, or in accordance with other data meeting the certification basis of the airplane which is approved by the FAA or by the DGAC.

The results of the supplemental inspections are to be reported to the manufacturer in accordance with the SSIP. This information will be presented in the periodic revisions.

Effects on Existing Maintenance Programs

In developing the SSIP, the manufacturer and operators reviewed the operation and maintenance practices of existing maintenance programs with respect to the basic requirements of the SSIP. As a result, the Dassault Aviation Fan Jet Falcon and Mystere-Falcon 20 SSIP allows affected operators to take credit for maintenance already being performed and gives the operators flexibility in revising their maintenance programs to incorporate this supplemental program for their airplanes.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.39 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require supplemental structural inspections, and repair or replacement, as necessary. The actions would be required to be accomplished in accordance with the SSIP document described previously.

The FAA estimates that 253 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 160 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,226,400.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES."**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART—[AIRWORTHINESS DIRECTIVES]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dassault Aviation: Docket 92-NM-25-AD.

Applicability: Model Fan Jet Falcon Basic D, E, and F series airplanes; and Model Mystere-Falcon 20-C5, D5, E5, and F5 series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of these airplanes, accomplish the following:

(a) Incorporate a revision into the FAA-approved maintenance inspection program that provides for inspection of the Significant Structural Items defined in Dassault Aviation Service Bulletin FJF-00-26 (FJF-730), Revision 1, dated December 12, 1990, at the later of the times specified in subparagraph (a)(1) or (a)(2):

(1) Prior to the accumulation of 20,000 landings or 30,000 hours time-in-service, whichever occurs first; or

(2) Within 6 months after the effective date of this AD.

(b) Report the results, positive or negative, of each inspection required by paragraph (a) of this AD to Dassault Aviation, in accordance with the instructions in Dassault Aviation Service Bulletin FJF-00-26 (FJF-730), Revision 1, dated December 12, 1990. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*) and have been assigned OMB Control Number 2120-0056.

(c) Cracked structures detected during the inspections required by paragraph (a) of this AD must be repaired or replaced, prior to further flight, in accordance with the instructions in Dassault Aviation Service Bulletin FJF-00-26 (FJF-730), Revision 1, dated December 12, 1990, or in accordance with other data meeting the certification basis of the airplane which is approved by the FAA or by the French Direction Générale de l'Aviation Civile (DGAC).

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the

requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 22, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-10201 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-14-AD]

Airworthiness Directives; Fokker Model F-27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the supersedure of an existing airworthiness directive (AD), applicable to all Fokker Model F-27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, that currently requires supplemental structural inspections to detect fatigue cracks, and repair or replacement, as necessary, to ensure continued airworthiness. This action would continue to require the same inspections, but would add or revise certain significant structural items for which inspection is necessary. This proposal is prompted by a structural re-evaluation by the manufacturer which identified additional structural elements where fatigue damage is likely to occur. The actions specified by the proposed AD are intended to prevent reduced structural integrity of these airplanes.

DATES: Comments must be received by June 22, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-14-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested, persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-14-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-14-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion: On September 14, 1990, the FAA issued AD 90-21-07, Amendment 39-6758 (55 FR 40159, October 2, 1990), to incorporate into the FAA-approved Maintenance Inspection Program, items defined in the Fokker Structural Integrity Program (SIP) Document No. 27438, part I, including revisions up through February 1, 1990. That action was prompted by a structural re-evaluation conducted by the manufacturer, which identified certain significant structural components where fatigue damage is likely to occur. The requirements of that AD are intended to prevent reduced structural integrity of these airplanes.

Since the issuance of that AD, Fokker has issued SIP Document No. 27438, part I, including revisions up through November 1, 1991, to add or revise items for inspection, repair, or replacement. These additional or revised items were included as a result of (1) fatigue analysis and tests, (2) service experience, (3) follow-up action to an airworthiness directive that required a one-time inspection and report of findings to the manufacturer, and (4) in some cases, an interim repair. The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, classified the revised SIP document as mandatory and issued Netherlands Airworthiness Directive BLA No. 91-049 in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 90-21-07 to require incorporation of the latest revisions of Fokker SIP Document No. 27438, part I, revised up through November 1, 1991, into the FAA-approved maintenance program. The continuing inspections, repair, and replacement would be required to be accomplished in accordance with this revision of the service document.

This proposal also revises the existing AD to allow repairs to be accomplished in accordance with other data meeting the certification basis of the airplane which is approved by the FAA or by the RLD.

The FAA estimates that 44 airplanes of U.S. registry would be affected by this proposal. The FAA estimates that it would take approximately 243 work hours per airplane per year to accomplish the actions required by AD 90-21-07, at an average labor rate of $55 per work hour. The new requirements specified in this proposal (implementation of the inspections, repairs, or replacements specified in the revisions to the SIP Document into an operator's maintenance program) are

estimated to require approximately 52 additional work hours (including removal, inspection, and installation) per airplane per year, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of this proposal on U.S. operators is estimated to be $713,900 the first year and annually thereafter. This figure includes an estimate of $125,840 per year to accomplish the new requirements of this proposal.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-6758 (55 FR 40159, October 2, 1990), and by adding a new airworthiness directive (AD), to read as follows:

Fokker: Docket 92-NM-14-AD. Supersedes AD 90-21-07, Amendment 39-6758.

Applicability: Model F-27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, all serial numbers, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of these airplanes, accomplish the following:

(a) Within 6 months after November 9, 1990 (the effective date of Amendment 39-6758, AD 90-21-07), incorporate into the FAA-approved maintenance program the inspections, inspection intervals, repairs, or replacements defined in Fokker Structural Integrity Program (SIP) Document No. 27438, part I, including revisions up through February 1, 1990; and inspect, repair, and replace, as applicable. The nondestructive inspection techniques referenced in this document provide acceptable methods for accomplishing the inspections required by this AD. Inspection results, where a crack is detected, must be reported to Fokker, in accordance with the instructions of the SIP document.

(b) Within 6 months after the effective date of this AD, incorporate into the FAA-approved maintenance program the inspections, inspection intervals, repairs, or replacements defined in Fokker Structural Integrity Program (SIP) Document No. 27438, part I, including revisions up through November 1, 1991; and inspect, repair, and replace, as applicable. The non-destructive inspection techniques referenced in this document provide acceptable methods for accomplishing the inspections required by this AD. Inspection results, where a crack is detected, must be reported to Fokker, in accordance with the instructions of the SIP document.

(c) Cracked structure detected during the inspections required by paragraph (a) or (b) of this AD must be repaired or replaced, prior to further flight, in accordance with the instructions in Fokker SIP Document No. 27438, part I, including revisions up through February 1, 1990, or Fokker SIP Document No. 27438, part I, including revisions up through November 1, 1991, respectively; or in accordance with other data meeting the certification basis of the airplane which is approved by the FAA or by the Rijksluchtvaartdienst (RLD).

(d) Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 22, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-10205 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 100

[CGD1 92-001]

Special Local Regulation: New York National Championship Race, New York, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary special local regulation for the New York National Championship Race. The event, sponsored by Super Boat Racing Tour, will take place on Sunday, October 4, 1992. Temporary closure of the Lower Hudson River between Battery Park and Manhattan Pier 76 is needed to protect the boating public from the hazards associated with high speed powerboat racing in confined waters.

DATES: Comments must be received on or before June 30, 1992.

ADDRESSES: Comments should be mailed to Commander, Coast Guard Group New York, Bldg. 109, Governors Island, New York 10004-5096, or may be delivered to the Waterways Management Office, Bldg. 109, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Any person wishing to visit the office must contact the Waterways Management Office at (212) 668-7933 to obtain advance clearance due to the fact that Governors Island is a military installation with limited access.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) J. E. Peschel, Waterways Management Office, Coast Guard Group, New York (212) 668-7933.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD1 92-001) and the specific section of the proposal to which their comment applies, and give reason for each comment. Persons requesting acknowledgment of receipt of comments

should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Waterways Management Office at the address under "**ADDRESSES**". If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The drafters of this notice are LTJG J. E. Peschel, Project Manager, Captain of the Port, New York and LCDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

Background and Purpose

On December 11, 1991 the sponsor, Super Boat Racing Inc., submitted a request to hold an offshore powerboat race on the Hudson River alongside Manhattan. The Coast Guard is considering establishing temporary regulations in the Port of New York and New Jersey including the Hudson River for this event known as the "New York National Championship Powerboat Race." The proposed regulations establish a safety zone in NY harbor to provide specific guidance and vessel movement controls during the limited timeframe of the race.

This event will include up to 25 powerboats competing on an oval course for 148 miles at speeds approaching 100 m.p.h. Due to the inherent dangers of a race of this type, a bank to bank closure of the waterway and subsequent restriction of traffic will be temporarily effected to ensure the safe navigation of the other users of the Hudson River.

The sponsors, Super Boat Racing, Inc. (formally under the name Offshore Professional Tour), have previously run this race in NY harbor in 1990 and 1991. This year's event will follow the same marked course and regulations as set forth in the previous years. By providing sufficient lead time, the New York Dept. of Ports and Trade in cooperation with Super Boat Racing, Inc. is attempting to minimize any burden to the users of the waterway. Parties from the NY and NJ maritime community have been contacted to provide input concerning this repeated event. At this writing, no negative comments have been received, providing the race is run in the same manner as in 1991.

Discussion of Proposed Amendments

The Coast Guard proposes to require Special Local Regulations on all waters of the Hudson River from Battery Park to Pier 76 Manhattan. The event will close the river to all traffic from 12 p.m. to 3 p.m. on October 4, 1992. This closure is needed to protect spectators and participants from the hazards that accompany a high speed powerboat race.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary due to the limited duration of the race, the extensive advisories that have been and will be made to the affected maritime community, and the fact that the event is taking place on a Sunday afternoon, which is normally a very light volume day for commercial marine traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), The Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If however you think that your business qualifies as a small entity and that this proposal will have a significant impact on your business, please submit a comment (see "**ADDRESSES**") explaining why you think your business qualifies and in what way and to what degree this proposal will economically affect your business.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination was conducted for last year's event and is available in the docket for inspection or copying where indicated under "**ADDRESSES**".

List of Subjects in 33 CFR Part 100

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements.

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section, 100.35 T0101 is added to read as follows:

§ 100.35 T0101 New York National Championship Race, New York and New Jersey.

(a) *Regulated Area.* The regulated area will include all waters of the Lower Hudson River south of a line drawn between Pier 76 Manhattan and a point on the New Jersey shore at 40° 45' 52" N latitude 74° 01' 01" W longitude, and north of a line connecting the following points:

Latitude	*Longitude*
40° 42' 16.0" N	74° 01' 09.0" W
40° 41' 55.0" N	74° 01' 16.0" W
40° 41' 47.0" N	74° 01' 36.0" W
40° 41' 55.0" N	74° 01' 59.0" W, Then to shore at
40° 42' 20.5" N	74° 02' 06.0" W

(b) *Special Regulations.*

(1) Commander, U.S. Coast Guard Group New York reserves the right to delay, modify or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area during the effective period of regulation unless participating in the event as authorized by the sponsor or the Coast Guard. The Patrol Commander, as delegated by the Commander, Coast Guard Group NY, will attempt to minimize any delays for commercial vessels transiting the area and will monitor channel 16 VHF-FM.

(3) All persons and vessels shall comply with the instructions of the

Commander, U.S. Coast Guard Group NY or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This regulation will be effective from 12 p.m. through 3 p.m. on October 4, 1992.

Dated: April 24, 1992.

J. D. Sipes,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 92-9988 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

(CGD1 92-027)

Drawbridge Operation Regulations; Connecticut River, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the Connecticut Department of Transportation (CONN DOT) and the Town of East Haddam, the Coast Guard is considering temporary regulations for the Route 82/East Haddam bridge over the Connecticut River, at mile 16.8, between East Haddam and Haddam, Connecticut. The temporary regulations, effective for 162 days from 22 May through 31 October 1992, would require the bridge to open for recreational vessels between 9 a.m. and 9 p.m., on Fridays, Saturdays and Sundays, except federal holidays, on the hour and half-hour. This proposed temporary regulation is being considered to examine the effect on vehicular and marine traffic during the above period and would provide for marine openings in emergency situations. This action should accommodate the needs of vehicular traffic, while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before May 15, 1992.

ADDRESSES: Comments may be mailed to Commander (obr), First Coast Guard District, bldg. 135A, Governors Island, NY 10004-5073. Comments may also be hand-delivered to this address. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays. The District Commander maintains the public docket for this rulemaking. Comments and other material referenced in this notice will become part of this docket and will be available for inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668-7170.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, this rulemaking (CGD1 92-027), the specific section of this proposal to which each comment applies, and give reasons for concurrence with or any recommended changes to the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped self-addressed post card or envelope.

The Coast Guard will consider all comments received during the comment period and determine whether to implement these temporary rules. The proposed temporary regulations may be changed in light of the comments received. A shortened comment period has been implemented in order to permit an opportunity to put the proposed temporary regulation in effect on 22 May 1992, for evaluation purposes. The proposed temporary regulation would request comments throughout the affected temporary rule period from 22 May through 31 October 1992. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Project Manager at the address under "**ADDRESSES**". If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The drafters of this notice are Waverly W. Gregory, Jr., Project Manager, and Lieutenant Commander John Astley, Project Counsel, First Coast Guard District, Legal Office.

Background and Purpose

In response to a request from the Town of East Haddam, CONN DOT requested evaluation of a change to the regulations for the Route 82/East Haddam Bridge, which presently opens on signal. The Town of East Haddam and the Chamber of Commerce feel that village commerce is suffering due to perceptions East Haddam is impassable due to the frequent bridge openings and the winding and narrow nature of the local roads.

The Coast Guard was asked to determine if regulations should be adopted to provide scheduled openings, and if such regulations would reduce the effects on the morning and evening commuter traffic on Route 82 in the area of the bridge and the adverse effect unscheduled openings have on the patrons of the Goodspeed Opera House.

Discussion of Proposed Amendments

The Route 82/East Haddam bridge over the Connecticut River between East Haddam and Haddam, Connecticut, has a vertical clearances of 22 feet above mean high water (MHW) and 25 feet above mean low water (MLW) The current regulations for the Route 82/East Haddam bridge require it to open on signal.

The proposed temporary regulations would provide openings for commercial vessels at all times and for recreational vessels on the hour and half hour, from 9 a.m. to 9 p.m., Fridays, Saturdays, Sundays and federal holidays for 162 days from 22 May through 31 October 1992, inclusive.

The proposed temporary regulations are being issued to evaluate the effect on vehicular and marine traffic during the peak recreational and transient boating season from 22 May through 31 October.

The proposed temporary regulations are the result of a petition from Senator Joseph Lieberman, with over 300 signatures of residents and local merchants located in the town of East Haddam as well as meetings with CONN DOT, Town of East Haddam, the local Chamber of Commerce, representatives of Goodspeed Opera House, Senator Dodd's office and the First Coast Guard District Bridge Administrator. Analysis of the bridge logs by the Coast Guard showed that the spring and fall transient recreational boating traffic on the weekends created the greatest potential for disruption of vehicular traffic due to back to back or unscheduled openings. Additionally, on some Fridays and weekends during the peak recreational and transient boating season some persons attending concerts and plays experienced untimely delays due to frequent or unscheduled openings.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation Regulatory Policies and

Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a Regulatory Evaluation is unnecessary. This opinion is based upon the fact that commercial vessels are exempt and that the regulations will not prevent recreational boaters from transiting the bridge but just require adjusting their time of arrival for openings on the hour and half hour to minimize any delays.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered, the environmental impact of this proposal and concluded that, under section 2.B.2. of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. Section 2.B.2.g.(5) provides that Bridge Administration program actions relating to the promulgation of operating requirements or procedures for drawbridges are excluded. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "**ADDRESSES**".

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Temporary Regulations

In consideration of the foregoing, the Coast Guard proposes to amend 33 CFR part 117, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. In Section 117.205 paragraph (c) is added for a 162 day period from 22 May through 31 October 1992 to read as follows:

§ 117.205 Connecticut River

* * * * *

(c) The draw of the Route 82/East Haddam bridge, mile 16.8, shall operate as follows:

(1) Public vessels of the United States, state or local vessels used for public safety and vessels in distress shall be passed through the draw as soon as possible without delay at any time. The opening signal from these vessels is four or more short blasts of a whistle or horn, or a radio requests.

(2) The owner shall provide and keep in good legible condition clearance gauges with figures not less than 12 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(3) For commercial vessels, the draw shall open on signal at all times.

(4) For recreational vessels, from 22 May through 31 October, the draw shall open on signal except that it need only open on the hour and half-hour from 9 a.m. to 9 p.m. on Fridays, Saturdays, Sundays, and federal holidays.

Dated: April 21, 1992.

J. D. Sipes,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 92–10097 Filed 4–30–92; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264 and 265

[FRL–4128–6]

Hazardous Waste Management: Containerized Liquids in Landfills

AGENCY: Environmental Protection Agency.

ACTION: Notice of supplemental information and request for comments.

SUMMARY: Under authority of the Resource Conservation and Recovery Act (RCRA), EPA is today announcing the availability of additional information concerning the Liquids Release Test (LRT), which was designed to determine the behavior of sorbed liquids placed in hazardous waste landfills. EPA first proposed the LRT on December 24, 1986 (51 FR 46824). On October 29, 1991 (56 FR 55646) EPA solicited comment on a modified LRT, on single and multi-laboratory test results using the modified LRT, and on specific issues related to the LRT. Today EPA requests comments on additional information contained in the public comments received on the October 29, 1991 notice.

DATE: Written comments on this notice must be submitted on or before June 1, 1992.

ADDRESSES: Written comments (one original and two copies) should be addressed to: EPA RCRA Docket #F–92–CCLA–FFFFF, room 2427, (OS–332), US EPA, 401 M St SW, Washington, DC 20460. The docket room is open from 9 am to 4 pm, Monday through Friday, except Federal holidays. Dockets related to this rulemaking are: (1) Docket #F–86–CLLP–FFFFF (51 FR 46824, December 24, 1986); (2) Docket #F–87–CLLN–FFFFF (52 FR 23695, June 24, 1987); and (3) Docket #F–91–CLLA–FFFFF (56 FR 55646, October 29, 1991). These dockets contain all the background documents and public comments related to this rulemaking. Call 202–260–9327 for an appointment to examine any of these dockets. Up to 100 pages may be copied free of charge from any one regulatory docket. Additional copies are $0.15 per page.

Call the RCRA Hotline at 1–800–424–9346 (toll free) or 703–920–9810 for single copies of: (1) Public comments on the October 29, 1991 **Federal Register** notice, (2) Method 9096—Liquid Release Test (LRT) Procedure (EPA 530–SW–91–078), or (3) Background Document for the Liquid Release Test (LRT): Single Laboratory Evaluation and 1988 Collaborative Study (EPA 530–SW–91–079). These items are also available for viewing and copying in Docket #F–92–CCLA–FFFFF and #F–91–CLLA–FFFFF. The document Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods, 3rd Edition, EPA Publication No. SW–846, is available from: (1) U.S. Department of Commerce, National Technical Information Service (NTIS), Springfield, VA 22161, NTIS # PB88–239–223, or phone 703–487–4650 or 1–800–553–6847 (for rush service), or (2) Government Printing Office (GPO), Superintendent of Documents, Washington DC 20402, GPO # 955–001–00000–1, or phone 202–783–3238. Copies

of the December 1986 and June 1987 public comments pertinent to the use of the PFT versus the LRT are available for viewing and copying in Dockets #F–#F–86–CLLP–FFFFF and #F–87–CLLN–FFFFF.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Hotline at 1–800–424–9346 (toll free) or 703–920–9810 in the Washington, DC area. For specific information related to test methods, call the Methods Information Communications Exchange (MICE) at 703–821–4789. For technical questions, contact Ken Shuster, US EPA, Office of Solid Waste (OS–340), Washington, DC 20460; 202–2214.

SUPPLEMENTARY INFORMATION:

I. Background

Section 3004(c)(2) of RCRA requires EPA to issue regulations that "prohibit the disposal in landfills of liquids that have been absorbed in materials that biodegrade or that *release liquids when compressed as might occur during routine landfills operations*" [emphasis added]. Today's notice of data availability addresses only the latter (italicized) part of this requirement concerning the release of liquids under compression.

On December 24, 1986 (51 FR 46824), EPA proposed Method 9096, the Liquids Release Test (LRT), utilizing the Zero-Headspace Extractor (ZHE) device which was being developed in conjunction with an unrelated regulatory activity, the Toxicity Characteristic Leaching Procedure (TCLP). Subsequently, EPA rejected the ZHE device and developed and tested a new LRT device to be used in Method 9096. The revised LRT uses a device developed for EPA by Associated Design and Manufacturing Company (ADM).

The reasons the ZHE device was rejected, a description of the new test device and method, and the results of single and multi-laboratory testing on the new LRT device were noticed in the **Federal Register** on October 29, 1991 (56 FR 55646). The October 1991 supplemental notice sought comments on two documents and a video: (1) Method 9096—Liquid Release Test (LRT) Procedure, (2) Background Document for the Liquid Release Test (LRT), and (3) Video: The Liquids Release Test (LRT). (For information on the availability of these documents see **ADDRESSES** section above). The October 1991 notice asked for comments on the appropriateness of requiring the revised LRT for sorbed liquids to implement RCRA section 3004(c)(2), and asked for comment on a number of specific pertinent issues.

Another test, the Paint Filter Liquids Test (PFT) [Method 9095] is also presented in the Background Document for the Liquids Release Test (LRT) listed above, and in Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods, 3rd Edition, EPA Publication No. SW–846 (for a copy of these, see **ADDRESSES** section above). The PFT is currently required to determine if a waste destined for a hazardous waste landfill contains any free liquids. Any waste that contains free liquids is prohibited from placement in a hazardous waste landfill. The October 1991 notice and LRT background document provided information comparing the PFT and LRT in terms of operation time and test results for the same sorbent/sorbate combinations.

II. Availability of Information

EPA is today making available for comment the public comments on the October 29, 1991 notice and on the public comments on the December 24, 1986 and June 24, 1987 notices that addressed the use of the PFT versus LRT. (See **ADDRESSES** above, for information on the availability of these comments).

III. Summary of the New Information

Commenters on the revised Liquids Release Test (LRT) described in the October 1991 notice generally questioned the use of the LRT device. Two commenters (like at least twelve commenters on the December 1986 and June 1987 notices), recommended use of the Paint Filter Liquids Test (PFT) instead of the LRT. One of these two commenters, after acquiring and using the new ADM LRT device, concluded that "the LRT is not sufficiently superior to the long-established Paint Filter Test (PFT—Test Method 9095) to warrant the additional burden and expense of the LRT" (at least for non-hazardous liquids) and further stated "Figure 8 of EPA's "Background Document For the Liquid Release Test" (September 18, 1991), where only a 10% loading level differential separates the first release observed in a PFT from the first release observed in a LRT, supports this view." The other commenter concluded that "since the LRT test could not be demonstrated as effective in all cases where the PFLT is currently employed * * * the PFLT is adequate to determine which wastes with absorbent containing wastes should be prohibited from land disposal * * * the [LRT] method as proposed is insufficient to replace the PFLT and * * * [i]t is not clear that addition to this (LRT) analysis provides any environmental benefit whatsoever. Also, it is not clear that RCRA Section 3004 requires EPA to develop an analytical method to provide the prohibition specified. EPA should consider other non-analytically based regulatory approaches to preventing the violative placement of containers holding absorbents." Several commenters argued that any moisture detection difference between the PFT and the LRT, regardless of which is more stringent, is insignificant, especially relative to the major source of liquids in landfills, i.e., precipitation. Other comments pointed to: technical problems with the LRT, its questionable applicability to many materials that might be considered sorbents (e.g., cement kiln dust), lack of data on its use in other materials, and disruptions of facility operations that might result from the relatively long test and clean-up time of the LRT device. One commenter suggested that the structural integrity of containers be considered when determinlng the pressure that may be experienced in a landfill.

IV. Issues

In addition to general comments on the October 1991 and December 1986 public comments, EPA solicits comment on two issues.

1. PFT Versus LRT

In reviewing the public comments as well as data already in the record, EPA notes that: (1) One class of sorbent/sorbate (e.g., Imbiber Beads® and oil) that interacts to create a solid mass does not allow normal operation of the LRT device or procedure, whereas the PFT method can be applied to this class, (2) the PFT is more stringent than the LRT for another class of sorbent/sorbatge (e.g., Floor Dry®, a diatomite, and water), and (3) for a third class of sorbent/sorbate tested (e.g., Safe-Step® and motor oil), the LRT is more stringent than the PFT.

Because the PFT for some sorbed wastes gave more conservative results than the LRT, one issue in the October 1991 notice that EPA sought comment on was whether (1) to require both tests on all sorbed waste, or (2) to use the PFT on a prescreen (i.e., if the waste fails the PFT there is no need to do the LRT; if the sorbed waste passes the PFT, the LRT would still need to be run). EPA now seeks comment on requiring use of the PFT alone to determine the acceptability of all sorbed hazardous wastes for landfilling. That is, since the PFT provides more conservative results (for at least some wastes) than a 50 psi compression test (ie., the LRT), can it be concluded that the PFT (which is

cheaper and easier to use) is a reasonable predictor of releases under pressure (i.e., is a good surrogate for the LRT) for all or at least some classes of wastes?

Alternatively, the Agency solicits comments on requiring use of the LRT for only those materials where it shows more conservative results (i.e., for oil-based wastes), and on requiring the PFT for the other sorbed wastes. Commenters should specifically focus on the categories of sorbent/sorbate materials that should be tested with the LRT, the practical implementation of this approach (e.g., how to address mixtures of categories), and any incremental benefits that the LRT might provide over the PFT.

2. Alternative Test Devices

The October 1991 notice also asked for comments on allowing alternative test devices "that meet design specifications (e.g., deliver 50 psi continuously, minimum sample size, 10 cm high sample) and performance requirements." The Agency now solicits comments on allowing alternative test devices and procedures based on comparabilty of results (i.e., an equivalency of performance demonstration alone) rather than on a combined performance equivalency demonstration and minimum design and operation features (e.g., 50 psi pressure and 10 minute test duration).

Dated: April 24, 1992.

Don R. Clay,

Assistant Administrotor for Solid Waste and Emergency Response.

[FR Doc. 92-10233 Filed 4-30-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 581

[Docket No. 92-20]

Service Contracts in Foreign-to-Foreign Trades

AGENCY: Federal Maritime Commision.

ACTION: Advance notice of proposed rulemakeing.

SUMMARY: The Federal Maritime Commission is considering publication of a proposed rule that would allow voluntary filing of service contracts that include foreign-to-foreign ocean transportation. The purpose of this Advance Notice is to solicit comments and information from the public on the feasibility and desirability of such a proposed rule.

DATES: Written comments in response to this Advance Notice are to be submitted by June 15, 1992.

ADDRESSES: Comments (original and 15 copies) are to be submitted to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L street, NW., Washington, DC 20573, (202) 523-5740

Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 1100 L street, NW., Washington, DC 20573, (202) 523-5796.

SUPPLEMENTARY INFORMATION:

Background

Section 8(c) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1707(c), states the regulatory requirements for "service contracts" filed with the Federal Maritime Commission ("FMC" or "Commission"). A service contract is defined by section 3(21) of the 1984 Act as * * *

> * * * A Contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate scehdule as well as a defined service level—such as, assured space, transit time, port rotation, or similar service features; the contract may also specify provisions in the event of nonperformance on the part of either party.

Id. 1702(21). Section 8(c) requires that * * *

> * * * Each [service] contract * * * shall be filed confidentially with the Commission, and at the same time, a concise statement of its essential terms shall be filed with the Commission and made available to the general public in tariff format, and those essential terms shall be available to all shippers similarly situated. The essential terms shall include—
>
> (1) The origin and destination port ranges in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements;
>
> (2) The commodity or commodities involved;
>
> (3) The minimum volume;
>
> (4) The line-haul rate;
>
> (5) The duration;
>
> (6) Service commitments; and
>
> (7) the liquidated damages for nonperformance, if any.

Id. 1707(c).

The Commission's regulations currently limit the scope of service contracts that may be filed as follows:

> Service contracts shall apply only to transportation of cargo moving from, to or through a United States port in the foreign commerce of the United States.

46 CFR 581.2. That regulation was promulgated in Docket No. 86-6, Service Contracts, _____F.M.C. _____, 24 S.R.R. 277 (1987). During the notice-and-comment period in Docket No. 86-6, several commenters opposed the geographic restrictions, arguing that the Commission should assert jurisdiction over service contracts that include foreign-to-foreign traffic because shippers and carriers sometimes negotiate a single contract package covering U.S.-foreign and foreign-to-foreign cargo movements.

The Commission held that the 1984 Act does not apply to such "mixed" contracts. It stated:

> In arguing that the scope of service contracts should be broad enough to include foreign-to-foreign cargo, the commenting parties appear to be treating the issue as purely one of policy which is within the Commission's discretion to decide. The Commission, however, cannot expand by its own regulations the power given to it by Congress.

24 S.R.R. at 284. The Commission cited *Austasia Intermodal Lines, Ltd.* v. *FMC*, 580 F.2d 642 (D.C. Cir. 1978) ("ACE"), which held that the tariff provisions of the Shipping Act, 1916 ("1916 Act"), applied only to a "common carrier by water in foreign commerce," which the 1916 Act defined as a carrier offering a U.S. port call as part of the service held out to the shipper. "Ace" also established that the use of "common carrier" in the 1916 Act was a guage of the Act's subject matter jurisdiction, and that subject matter jurisdiction fails if the person responsible for the activities in question does not fit within the statutory definition.

"ACE" left open the question whether the Commission could assert jurisdiction over foreign-to-foreign ocean transportation if the carrier also offered U.S.-foreign voyages and thus was a Shipping Act "common carrier" at least to that extent. However, when Congress wrote the 1984 Act and defined a "common carrier" within the scope of the Act as one holding itself out to the general public to provide transportation between the United States and a foreign country that * * *

> * * * Utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country * * *.

46 U.S.C. app. 1702(6), Congress not only left "ACE" undisturbed, but also made it clear that the FMC may not assert jurisdiction over the carriage of U.S. cargoes through foreign ports on the ground that the carrier in question also makes U.S. port calls, or on the ground

that the carrier carries U.S. cargoes out of U.S. ports and U.S. cargoes out of foreign ports on the same voyage. The Senate Commerce Committee stated:

> [The] definition [of "common carrier"] applies only to the extent the passengers or cargo transported are loaded or discharged at a U.S. port. Thus, a liner carrier that accepts U.S.-origin intermodal cargo (or, for that matter, Canadian-origin cargo) at Halifax and calls at Boston for further loading enroute to Rotterdam would be a "common carrier" for purposes of the bill only with respect to the Boston-Rotterdam leg of its voyage.

S. Rep. No. 3, 98th Cong., 1st Sess. 19 (1983).

In "Service Contracts", the Commission applied the "ACE" test for subject matter jurisdiction in noting that "[o]nly service contracts offered by an 'ocean common carrier or conference' are subject to section 8(c) of the 1984 Act." 24 S.R.R. at 284. After quoting the legislative history of the definition of "common carrier" set forth above, the Commission concluded that "* * * inclusion of foreign-to-foreign cargo, over which the Commission has no jurisdiction, in service contracts subject to filing under section 8(c) of the 1984 Act would be contrary to the intent of Congress to limit the scope of the 1984 Act to cargo moving in the ocean commerce of the United States which is loaded or discharged at a U.S. port." *Id.*

More recently, in *Puerto Rico Ports Authority* v. *FMC*, 919 F.2d 799 (1st Cir. 1990), the First Circuit reversed a Commission assertion of jurisdiction over certain activities of a port authority. The court found that the port authority was not a regulated "marine terminal operator" for purposes of the activities in question, notwithstanding that other of its activities fell within the Shipping Act. Also, in Docket No. 87-24, *Foreign-to-Foreign Agreements—Exemption*, the Commission ruled that the agreement-filing provisions of the 1984 Act did not apply to agreements among carriers governing foreign-to-foreign services. 24 S.R.R. 1448 (1988), reconsideration denied, 25 S.R.R. 455 (1989). Consistent with "ACE" and "Service Contracts", the Commission held that carriers are not Shipping Act "common carriers" for purposes of such agreements, regardless of whether they might be "common carriers" for other purposes. The Commission rejected arguments, similar to those advanced by the Docket No. 86-6 commenters, that such agreements fell within the Act because they were part of larger agreements that included U.S. port calls. The Commission's decision was affirmed on appeal. *Transpacific Westbound Rate Agreement* v. *FMC*, 951 F.2d 950 (9th Cir. 1991).

The prohibition against filing "mixed" service contracts that cover foreign-to-foreign as well as U.S.-foreign ocean transportation was raised as an issue by both shippers and carriers before the Advisory Commission on Conferences and Ocean Shipping. The current regulation at 46 CFR 581.2 requires in effect that the U.S.-foreign provisions of such contracts be treated as a separate contract for 1984 Act filing purposes, and, for the reasons set forth above, it is clear that the FMC has no jurisdiction to require the foreign-to-foreign provisions to be filed. However, absence of jurisdiction over complete "mixed" contracts would not appear to automatically bar the Commission from allowing by regulation the voluntary filing of such contracts as a matter of information to the public or convenience to the contract parties.

In *Foreign-to-Foreign Agreements—Exemption*, the FMC rejected arguments that carriers should be able to file foreign-to-foreign agreements voluntarily if they were not subject to mandatory filing, and thereafter a Circular Letter was issued announcing that any new agreements with foreign-to-foreign provisions would be rejected. It may be possible, however, to draw distinctions between agreements and service contracts. The Commission's conclusion that agreements outside its jurisdiction may not be filed voluntarily was based on the facts that Congress specifically considered and then dropped a voluntary filing option for foreign-to-foreign agreements, see 24 S.R.R. at 1451-53, that section 5(a)(1) of the 1984 Act excludes such agreements from mandatory filing, and that section 7(a)(3) of the Act leaves such agreements subject to the antitrust laws. 46 U.S.C. app. 1704(a), 1706(a)(3). The question of antitrust immunity does not arise in connection with service contracts, and the 1984 Act does not appear to set forth any equivalent directives against voluntary filing of service contracts that include foreign-to-foreign carriage. A basis may therefore exist to distinguish agreements from service contracts insofar as voluntary filing is concerned.

In addition to the issue of the Commission's authority to accept "mixed" service contracts, even on a voluntary basis, a number of other issues and concerns require consideration. As set forth above, section 8(c) of the 1984 Act requires that the "essential terms" of filed service contracts be made available to the general public in carrier tariffs. The Commission's regulations define "essential terms" and require carriers and conferences to maintain an "Essential Terms Publication" in a specified format. 46 CFR 581.1(f), 581.3(b), 581.4(b), 581.5. Section 8(c) further mandates that a filed service contract's essential terms "shall be available to all shippers similarly situated" to the contract shipper. 46 U.S.C. app. 1707(c). The Commission's regulations prescribe methods of compliance with this requirement. 46 CFR 581.6(b). Questions arise whether the voluntary filing of a "mixed" service contract would cause the foreign-to-foreign part of such a contract to fall under the public "essential terms" requirement, whether similarly situated shippers would be able to demand as a matter of right the same essential terms for foreign-to-foreign transportation, whether the foreign-to-foreign provisions of a "mixed contract" might operate to bar certain shippers from accessing the contract as similarly situated shippers, and whether the Commission would have legal power to enforce section 8(c)'s requirements against the foreign-to-foreign provisions of a voluntarily filed contract.

The Commission believes that these issues can best be explored through the issuance of this Advance Notice of Proposed Rulemaking to solicit the views of governmental bodies, shippers, carriers and the interested public. Specific comments are sought on the following issues, as well as on any other matter deemed to be relevant. The Commission wishes to be clear that these questions concern the implications of accepting "mixed" contracts for filing purposes. The FMC is not seeking to assert jurisdiction over foreign-to-foreign transportation, but jurisdictional questions may unavoidably arise if "mixed" contracts are permitted to be filed.

Issues Upon Which Specific Comments Are Requested

1. Is it a matter of significant business importance or convenience that the FMC allow the filing of service contracts that include foreign-to-foreign ocean transportation? What are the specific difficulties with the present regulation, the effect of which is to require that the U.S.-to-foreign part of such contracts be treated as a separate contract for 1984 Act filing?

2. Is there any legal bar to allowing voluntary filing of "mixed" service contracts? Would that approach be contrary to Congress' limitation of the Commission's jurisdiction through the definition of "common carrier"? Compare or contrast the Commission's refusal to allow voluntary agreement

filing in Foreign-to-Foreign Agreements—Exemption.

3. If "mixed" service contracts were permitted to be filed voluntarily, would a voluntary filing trigger complete or partial FMC jurisdiction to enforce the 1984 Act and its implementing regulations with regard to the entire contract, including, the foreign-to-foreign provisions? If so, could and should the Commission require that the parties' cargo and service commitments be broken out by trade, both U.S.-foreign and foreign-to-foreign, so that the "essential terms" applicable to each trade would be identified separately? Would the "essential terms" applicable to foreign-to-foreign trades be subject to section 8(c)'s public tariff requirement? Would similarly situated shippers be able to assert a right to foreign-to-foreign "essential terms," or, conversely, would shippers be able to access only the U.S.-foreign part of a "mixed" contract without being obligated under the foreign-to-foreign provisions (address the specific case of a contract where the U.S./foreign cargo and service commitments of the shipper and the carrier depend, in whole or in part, on their foreign-to-foreign commitments)? If shippers could assert access to foreign-to-foreign essential terms, how could the Commission enforce that right?

4. If the voluntary filing of a "mixed" service contract would not trigger FMC regulatory jurisdiction over the entire contract, what impact would there be on the Commission's responsibility to administer the 1984 Act with respect to service contracts in U.S.-foreign trades? For example, if a "mixed" contract were filed without the parties' cargo and service commitments being broken out between U.S.-foreign and foreign-to-foreign trades, how could the Commission determine the extent of its jurisdiction over activities undertaken pursuant to such a contract? Could the Commission ensure that such a contract would not be used to allow the parties to avoid the publicly filed rates in the U.S.-foreign trades, or was not otherwise unfairly discriminatory against other carriers or shippers? How could other shippers in the U.S.-foreign trades determine the applicable "essential terms" and assert their statutory right to access to such terms?

5. If "mixed" contracts were permitted to be filed, should they be made subject in their entirety to the Commission's reporting requirements at 46 CFR 581.10?

6. By separate notice served this same date, the Commission has published a proposed rule that would allow service contracts to be amended. Please comment on how adoption of that rule, or failure to adopt that rule, would impact and relate to the issues in this proceeding. If the current regulation at 46 CFR 581.7(a) barring amendments to service contracts should remain in place, how would that relate to the foreign-to-foreign components of filed "mixed" contracts? Conversely, if FMC regulations are changed to permit service contracts to be amendable, what issues, if any, arise as to "mixed" contracts?

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-10291 Filed 4-30-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Docket No. CC Docket No. 92-76; DA 92-443]

Low-Earth Orbit Satellite Service

Released April 16, 1992.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on whether it should establish a Federal Advisory Committee to negotiate proposed service and technical rules governing the provision of non-voice, low-Earth orbit satellite services.

DATES: Comments may be filed on or before May 18, 1992

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kristi L. Kendall, Satellite Radio Branch, Common Carrier Bureau, (202) 634-7058.

SUPPLEMENTARY INFORMATION:

1. The Commission is considering establishing an Advisory Committee to negotiate regulations defining the technical and service rules appropriate to the provision of data messaging and position determination services using low-Earth orbit (LEO) satellites operating in the 137-138, 148-150.5, 399.9-400.05 and 400.15-401 MHz frequency bands ("small" LEOs). In a Notice of Proposed Rulemaking, 6 FCC Rcd 5932 (1991) (allocation NPRM) we proposed to allocate these bands to a LEO satellite service. The negotiations contemplated by this Notice will help develop regulations designed to facilitate the shared use by the maximum number of service providers in the spectrum. The rules would cover all qualifications for a Commission license to provide small LEO services. Any negotiating committee would be created under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and the Negotiated Rulemaking Act of 1990 (NRA), Pub. L. 101-648, November 28, 1990, and would consist of representatives of the interests that will be significantly affected by the outcome of these rules. See also Initial Policy Statement and Order, 6 FCC Rcd 5669 (1991).

I. Regulatory Negotiation

2. Regulatory negotiation is a technique through which the Commission hopes to develop better regulations that may be implemented in a less adversarial setting. Negotiations are conducted through an Advisory Committee chartered under FACA. The goal of the Committee is to reach consensus on the language or issues involved in a rule. If consensus is reached, it is used as the basis of the Commission's proposal. If consensus is not reached, majority and minority input may be used by the Commission in ultimately proposing regulations. All procedural requirements of the Administrative Procedure Act (APA) and other applicable statutes continue to apply.

3. When making a determination regarding the suitability of a candidate for the negotiated rulemaking process, the Commission must consider whether:

(a) There is a need for the rule,

(b) There are a limited number of identifiable interests that will be significantly affected by the rule,

(c) There is a reasonable likelihood that a committee can be convened with a balanced representation of persons who:

(1) Can adequately represent the identifiable interests and

(2) Are willing to negotiate in good faith to reach a consensus on the proposed rules,

(d) There is a reasonable likelihood that a committee will reach a consensus on the proposed rules with a fixed period of time,

(e) The negotiated rulemaking procedure will not unreasonably delay the notice of proposed rulemaking and the issuance of final rules,

(f) The agency has adequate resources and is willing to commit such resources, including technical assistance, to the committee, and

(g) The agency will, to the maximum extent possible consistent with the legal obligations of the agency, use the consensus of the committee with respect to the proposed rules as the basis for the

rules proposed by the agency for notice and comment. NRA section 3, 5 U.S.C. 583(a).

II. Subject and Scope of Rule Proposed for Negotiation

4. The proposed rulemaking process is intended to develop the rules that will govern the provision of mobile- and fixed- LEO satellite services operating in the frequency bands below 1 GHz. These regulations are necessary to establish a new domestic satellite service in accordance with our allocation NPRM, *supra*, to define and regulate this service in such a way as to maximize use of these frequency bands and to protect existing users of these bands from harmful interference.

5. The Commission is here proposing that the service and technical rules governing the provision of small LEO services be developed through negotiation. We believe that such rules are appropriate for negotiated development. The Commission's staff has made preliminary inquiries of a number of potential parties and representatives of identified interests to determine if the regulations satisfy the applicable selection criteria for negotiation. On the basis of these inquiries, the Commission believes that the regulations meet the selection criteria and that the negotiations can be successful. Affected interests are relatively small in number, and our initial contacts indicate that an appropriate balance and mix of groups will be willing to participate in good faith. The Commission also believes that a Committee comprised of representatives of these groups could reach a consensus in a reasonable amount of time so as not to unduly delay the issuance of a notice of proposed ruelmaking or a final order. The Commission has adequate resources to devote to the negotiations, and it will use the consensus of the Committee as the basis for its rules to the extent possible.

6. The Commission has identified the following issues, among others, that will be addressed in developing the rules for small LEO services:

(a) Whether small LEO services should be offered on a common carrier basis,

(b) Which modulation method should be employed by the parties in order to co-exist with other satellite and terrestrial systems in the band,

(c) Whether separate rules should be established to govern the provision of non-profit, as opposed to commercial, small LEO services,

(d) The extent to which the spectrum may be shared by future applicants,

(e) Whether coordination disputes between LEO uplinks and terrestrial services should be resolved in an open forum or through the Frequency Assignment Subcommittee of the Interagency Radio Advisory Committee, and

(f) Whether, and to what extent, the other proposals set forth in our allocation NPRM should be implements.

All proposals must comply with International Telecommunications Union treaty obligations, and conform to any operating restrictions ultimately negotiated between the National Telecommunications and Information Administration and the Commission with regard to the final spectrum allocation.

III. Potential Interests and Participants

7. The Commission has identified the following interests as those likely to be significantly affected by the small LEO service rules:

—all applicants to provide small LEO services in the affected bands

—all existing users of these frequencies for terrestrial or space services

8. The following have initially indicated their willingness to participate in the negotiation Committee, if the Commission decides to proceed with its implementation: Volunteers in Technical Assistance, Albert Halprin for Orbital Communications Corporation, Alan Renshaw and/or Raul R. Rodriguez for STARSYS, Inc., and the Domestic Facilities Division, Common Carrier Bureau, for the Federal Communications Commission.

IV. Formation of the Negotiating Committee

A. Procedure for Establishing an Advisory Committee

9. As a general rule, an agency of the Federal Government is required to comply with the requirements of FACA when it establishes or uses a group which includes members of the public as a source of advice. Under FACA, an Advisory Committee is established only after both consultation with the General Services Administration (GSA) and filing of a charter. The Commission will prepare a charter and initiate the requisite consultation process prior to formation of the Committee and the commencement of negotiations.

B. Participants

10. The number of participants in the group is estimated to be about 10 and should not exceed 25 participants. A number larger than this could make it difficult to conduct efficient negotiations. We do not believe that each potentially affected organization or individual must necessarily have its own representative. However, we firmly believe that each interest must be adequately represented. We must be satisfied, moreover, that the group as a whole reflects a proper balance and mix of interests.

11. Persons who will be significantly affected by the proposed rules and who believe that their interests will not be adequately represented by any person specified in paragraph 8, *supra*, may apply for, or nominate another person for, membership on the negotiated rulemaking Committee to represent such interests with respect to the proposed rules. Each application or nomination shall include:

(a) The name of the applicant or nominee and a description of the interests such person will represent,

(b) Evidence that the applicant or nominee is authorized to represent parties related to the interests the person proposes to represent,

(c) A written committment that the applicant or nominee shall actively participate in good faith in the development of the rules under consideration, and

(d) the reasons that the persons specified in this Notice do not adequately represent the interests of the person submitting the application or nomination.

12. If, in response to this Notice, any additional individuals or interests request membership or representation in the negotiating group, the Commission will determine whether that individual or representative should be added to the group. The Commission will make that decision based on whether the individual or interest would be substantially affected by the rule, and is already adequately represented in the negotiating group.

C. Agenda

13. If the Commission ultimately decides to establish a negotiating committee and its charter is approved, it is expected that the Committee's first meeting will take place in September 1992, at 2000 L Street, NW., Washington, DC, at a room, date and time that will be announced. At this initial meeting, the Committee will complete action on all procedural matters and establish a target date for submission of its recommendations. We expect that this target date will be no later than December 31, 1992. We anticipate publication of a notice of proposed rulemaking not later than March 1993.

V. Negotiation Procedures

14. The following procedures and guidelines will apply to the Committee, if formed, unless they are modified as a result of comments received on this Notice or during the negotiation process.

A. Facilitator

15. The Commission will nominate a person to serve as a neutral facilitator for the negotiations of the Committee, subject to the approval of the Committee by consensus. The facilitator will not be involved with the substantive development or enforcement of the regulations. The facilitator's role is to:

—Chair negotiating sessions;
—Help the negotiation process run smoothly;
—Help participants define and reach consensus; and
—Manage the keeping of records and minutes.

B. Good Faith Negotiation

16. Since participants must be willing to negotiate in good faith and be authorized to do so, each organization must designate a qualified individual(s) to represent its interest. This applies to the Commission as well, and Thomas S. Tycz, Deputy Chief, Domestic Facilities Division, will be the Commission's representative.

C. Meetings and Compensation

17. Meetings will be held in the Washington area at the convenience of the Committee. The Commission, if requested, will provide the facilities needed for the conduct of the meetings, and will provide any necessary technical support. Private sector members of the Committee will serve without government compensation or reimbursement of expenses.

D. Committee Procedures

18. Under the general guidance and direction of the facilitator, and subject to any applicable legal requirements, the members will establish the procedures for Committee meetings that they consider most appropriate.

E. Consensus

19. The goal of the Committee is consensus. We expect the participants to fashion their own working definition of this term. In the event the Committee is unable to reach consensus, the Commission will proceed to develop its own approach. Parties to the negotiation may withdraw at any time. If this happens, the remaining Committee members and the Commission will evaluate whether the Committee should continue.

F. Record of Meetings

20. In accordance with FACA's requirements, the Committee will keep a record of all Committee meetings. This record will be placed in the public docket for this rulemaking. The commission will announce Committee meetings in the **Federal Register.** Such meetings will be open to the public.

VI. Conclusion

21. The Commission requests public comment, within 30 days of the issuance of this Notice, on whether: (1) It should establish a Federal Advisory Committee, (2) it has properly indentified interests that are significantly affected by the key issues listed above, (3) the proposed Committee membership reflects a balanced representation of these interests, and (4) regulatory negotiation is appropriate for this rulemaking.

22. Pursuant to the applicable procedures set forth in section 4(c) of the Negotiated Rulemaking Act of 1990, 5 U.S.C. 584(c), interested parties may file comments and applications for Committee membership on or before May 18, 1992. You should send your comments and/or applications to the Office of the Secretary, CC Docket No. 92–76, Federal Communications Commission, Washington, DC 20554. Comments and applications will be available for public inspection during regular business hours in the Dockets Reference Room of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

23. For further information pertaining to the establishment of the negotiation committee and associated matters, contact Kristi L. Kendall, Satellite Radio Branch, 2025 M Street, NW., Washington, DC 20554, (202) 634–7058.

Federal Communications Commission.

Dona R. Searcy,

Secretary.

[FR Doc. 92–9357 Filed 4–30–92; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Rulemaking Petition, Standard No. 108; Moore

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking filed by Dennis G. Moore of Sierra Products Inc., of Livermore, California. Mr. Moore requested amendments to Federal Motor Vehicle Safety Standard No. 108, "Lamps Reflective Devices and Associated Equipment," to define the terms "Housing," "Rim," and "Beads". He also asked the agency to address the cost to industry and the public associated with complying with the updated SAE standards for stop and turn signal lamps that were adopted in a final rule published in May 1990. Mr. Moore claimed that this new requirement is so obscure it will cost the public millions of dollars in revamping of existing tooling in order to change from 8 square inch lamps (turn and stop) to 12 square inch lamps for vehicles 80 inches or more in overall width.

Mr. Moore, however, provided no evidence that anyone would actually be adversely affected by the absence in Standard No. 108 of definitions for these terms. Thus, his petition for rulemaking is denied.

FOR FURTHER INFORMATION CONTACT: Richard L. Van Iderstine, Office of Vehicle Safety Standards, NHTSA, (202) 366–5275.

SUPPLEMENTARY INFORMATION: As a result of a petition from the Transportation Safety Equipment Institute and with the concurrence of commenters to the resultant notice of proposed rulemaking, Federal Motor Vehicle Safety Standard No. 108 was amended on May 15, 1990, to incorporate by reference the then most recent Society of Automotive Engineers (SAE) standards for stop lamps and turn signal lamps. These contained a new requirement for all stop and turn signal lamps to have a minimum effective projected luminous lens area of 75 square centimeters for vehicles 2032 cm. or greater in overall width (55 FR 20158). Further, as part of the rulemaking a number of definitions were added to the standard. The amendments were originally scheduled to become effective on December 1, 1990, but were subsequently delayed until December 1, 1991.

On October 11, 1991, Dennis Moore petitioned the agency to define three terms, "Housing," "Rim," and "Beads" that were used in the amendment. These terms affect the measurement of signal lamp lens areas.

The term "housing" appears in the definition of "Multiple Compartment

Lamp": a device which gives its indication by two or more separately lighted areas which are joined by one or more common parts, such as a "*housing*" or lens. The terms "rims" and "beads" appear in the definition for "effective projected luminous lens area": that area of the projection on a plane perpendicular to the lamp axis of that portion of the light emitting surface that directs light to the photometric test pattern, and does not include mounting hole bosses, reflex reflector area, "*beads*" or "*rims*" that may glow or produce small areas of increased intensity as a result of uncontrolled light from small areas. Mr. Moore is concerned that lamps he manufactures will need to be redesigned in order to meet the new requirements since he is unsure of how to measure the lens area.

According to Mr. Moore, the cost to industry and indirectly to the public must be reassessed to find out exactly all of the economic ramifications to the lighting industry. He further claimed that added cost is caused by the revamping of existing tooling, and asked that the standard not become effective until the three terms are clearly defined and the economic impact studied.

Agency Decision

1. Definitions

NHTSA believes that defining the terms "housing," "beads" and "rims" is not necessary because there is no indication that the vehicle and lighting industries, Mr. Moore aside, do not understand these common terms as they apply to lamps and the optical aspects of lamp design. The incorporation of these terms in Standard No. 108 was a consequence of NHTSA's response to an industry petition to update references to SAE standards for stop and turn signal lamps. These terms occur in the SAE standards, which are internationally recognized consensus standards. When the amendments were proposed and adopted, there was no request for further explanation of the definitions or any of their terms. When Ford and General Motors petitioned for reconsideration to include the area of "rims" and "beads" and other such terms in the measured lens area for meeting the effective projected luminous lens area requirement (denied on December 5, 1990, 55 FR 50182), they apparently understood the meaning of the terms as they did not ask for clarification. Funk & Wagnalls Standard Dictionary of the English Language, International Edition, defines "rim" in pertinent part as the edge of an object, and a margin or border. It defines "bead" in pertinent part as a molding composed of a row of half-oval ornaments resembling a string of beads, or a small convex molding.

At one time, various lens features including "rims" and "beads" could be used to achieve the minimum measured lens area. However, in the rulemaking under which "effective projected luminous lens area" was defined, the agency (55 FR 50183) stated that to be effective, the lens area measured must contribute to the photometric performance of the lamp. Thus, those parts of lenses such as rims, beads and screw bosses were excluded from the area measurement since none purposefully participates in achieving photometric performance. Therefore, in determining whether his lamps conform to the 75 cm. minimum requirement of Standard No. 108, Mr. Moore must decide from the various areas constituting the lens of each lamp which of those areas contribute to each lamp's performance.

As for the term "housing", Funk & Wagnalls defines it as a place of shelter from the weather. Thus, as it would pertain to a lamp, it is that part of the lamp which provides a shelter for other parts of the lamp such as, but not limited to, a light source(s) and holder(s), and internal optical parts such as reflector(s), filter(s) or shade(s). Since the definition of "multiple compartment lamps" is also based upon the SAE standard, incorporates common terms, and has received positive support in the rulemaking process by commenters, NHTSA hereby finds, at the conclusion of its technical review, that there is no reasonable possibility that an amendment of the nature requested will be issued at the conclusion of a rulemaking proceeding, and Mr. Moore's petition is hereby denied.

2. Economic Study

Mr. Moore wants an economic analysis performed on the basis that small businesses such as his would be required to retool in order to meet the 75 sq. cm. (12 sq. in.) stop and turn signal minimum luminous lens area requirement. The agency, in fact, made such an analysis and discussed it in the final rule (55 FR at 20161). Although the petitioner represented that wide vehicles had traditionally been equipped with the larger lamps, Chrysler Corporation had commented in response to the notice of proposed rulemaking that some of its vehicles would require changes to assure conformance. Accordingly, the agency asked eight lamp and trailer manufacturers for their compliance status in informal telephone conversations. These manufacturers indicated that 99% of the then current production trucks and trailers already used the larger lamps. The remaining 1% appeared comprised of lamps of 8-square inches used on flatbed trailers. Because of the low volume of these lamps, it appeared that the fleet cost of these lamps is 5% higher than those with lenses of 12 square inches (75 sq. cm.) The agency concluded that there should be no discernable cost increases attributable to adoption of the rule. NHTSA notes that Mr. Moore did not substantiate his assertions that his lamps would need to be redesigned to meet the 75 sq. cm. minimum area requirement. Additionally, no other commenter provided any information that would lead NHTSA to believe that cost would be a consideration in adopting requirements requested by an industry organization. Mr. Moore's request long after the conclusion of these rulemaking proceedings does not justify a further economic analysis, and his request for re-examination of the facts of these rulemaking is denied.

Authority: 15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 24, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-10068 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 57, No. 85
Friday, May 1, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on Tuesday, May 19, 1992, and Wednesday, May 20, 1992.

Dates: May 19, 1992, (9 a.m. to 5 p.m.); May 20, 1992, (9 a.m. to 1 p.m.).

Place: U.S. Department of State;

The purpose of the meeting is to examine the operational mechanisms of the A.I.D./PVO relationship from the perspective of A.I.D.'s programmatic needs in the 1990's. The principle point of analysis will be whether the A.I.D./PVO grant and contractual instruments, mechanisms and procedures are the right ones for the coming decade—do they reflect the special needs and changing characteristics of the U.S. development program?

The meeting is free and open to the public. However, notification by May 15, 1992, through the Advisory Committee Headquarters is required.

Persons wishing to attend the meeting must call Theresa Graham or Susan Saragi (703) 351–0203, or facsimile (703) 351–0212. Persons attending must include their name, organization, birth date and social security number for security purposes.

Dated: April 16, 1992.

Sally H. Montgomery,

Deputy Assistant Administrator, Private and Voluntary Cooperation, Food and Humanitarian Assistance.

[FR Doc. 92–10149 Filed 4–30–92; 8:45 am]
BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Alternative Agricultural Research and Commercialization (AARC) Center

AGENCY: AARC Board Public Hearings, Department of Agriculture.

ACTION: Notice of AARC Board public hearings.

SUMMARY: The USDA–AARC Board announces that it will hold eight public hearings around the country in May and June. The Board was designated by Congress under the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624) to establish policy, implement programs, and direct the activities of the AARC Center, as an independent entity within USDA, with the goal of expanding industrial (nonfood, nonfeed) uses of farm and forest materials. The Board reports to the Secretary of Agriculture. The authorizing legislation requires the Board to hold public hearings to obtain input prior to establishing program policy, objectives, research and development, and commercialization priorities. Some of the topics that may be addressed at these hearings include the provision of information to the public about AARC, alternative industrial uses of agricultural materials, and mechanisms for transferring technology, financing alternative uses, spurring rural development, improving trading and competitiveness, and building public/private partnerships. The AARC Board will determine the witnesses to testify and assure that a broad range of testimony is received.

FOR FURTHER INFORMATION AND TO APPLY TO TESTIFY, CONTACT: Dr. Paul O'Connell, Acting Director, AARC Center, United States Department of Agriculture, 14th and Independence Ave, SW., 342 Aerospace Center, Washington, DC 20250–2200; FAX (202) 401–5179 or Telephone (202) 401–4860.

SUPPLEMENTARY INFORMATION: Public hearings are open to the public, limited only by the available space. Although each meeting will have a primary focus, each hearing is open to other topics also. Public hearings are scheduled to begin at 9 a.m. and conclude at 3:15 p.m. on the following dates and at these locations:

May 12—Cedar Rapids, Iowa.
Primary Focus: Starch, oilseeds and livestock.
Location: Sheraton Inn, 525d 33d Ave, SW.
Directions: I–380 North to exit 17; near on left.
Phone: 319–366–8671.
FAX: 319–362–1420.

May 13—Atlanta Georgia.
Primary Focus: Oilseeds and fibers.
Location: Sheraton Hartsfield Hotel, 3601 N. Desert Drive.
Directions: Intersection of I–285 at Exit 3.
Phone: 404–762–5141.
FAX: 404–768–1106.

May 14—Newark, New Jersey.
Primary Focus: Starch and fibers.
Location: Newark Airport Vista Hotel, 1170 Spring St.
Directions: Newark Airport area go to Routes 1 & 9 and take Service Road to Vista Hotel.
Phone: 908–351–3900.
FAX: 908–351–9556.

May 27—Portland, Oregon.
Primary Focus: Oilseeds and fibers.
Location: Red Lion Jantzen Beach, 909 N. Hayden Island Dr.
Directions: Intersection I–5 north at exit 308.
Phone: 503–283–4466.
FAX: 503–735–4847.

May 28—Sacramento, California.
Primary Focus: Fibers, energy.
Location: Hyatt Regency, 12th & L St.
Directions: Down across from State Capitol.
Phone: 916–443–1234.
FAX: 916–321–6631.

June 16—Bloomington, Minnesota.
Primary Focus: Oilseeds and dairy.
Location: Crown Sterling Hotel, 7901 34th Ave South.
Directions: I–94 at 34th Ave exit.
Phone: 612–854–1000.
FAX: 612–854–6557.

June 17—Bonner Springs, Kansas.
Primary Focus: Livestock, oilseeds, and starch.
Location: National Agricultural Hall of Fame, 630 Hall of Fame Dr.
Directions: I–70 at KS Hwy 7 (Bonner Springs), then northeast one mile.
Phone: 913–721–1075.
FAX: 913–721–1075.

June 18—Irving, Texas.
Primary Focus: Oilseeds, fibers, and livestock.
Location: Airport Holiday Inn North, 4441 Hwy 114 at Esters Road.
Directions: Intersection I–635 & Hwy 114.
Phone: 214–929–8181.
FAX: 214–929–8181.

Individuals who apply to testify are strongly encouraged to prepare a one page (typed) summary of their key points to be submitted at the public hearing.

Dated: April 27, 1992.

Paul F. O'Connell,

Acting Director, AARC Center

[FR Doc. 92-10169 Filed 4-30-92; 8:45 am]

BILLING CODE 3410-22-M

Agricultural Marketing Service

Meetings Scheduled for the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), as amended, the Agricultural Marketing Service announces forthcoming meetings of the National Organic Standards Board (NOSB) Committees.

DATES: April 30-May 2, 1992, for the International Issues and Accreditation Committees, at the Ramada Renaissance Hotel.

May 4-6, 1992, for the Crop Standards, Livestock Standards, Processing, Labeling and Packaging, and the National Materials List Committees at the Holiday Inn Central.

ADDRESSES: The Ramada Renaissance is located at 950 North Stafford Street, Arlington, Virginia. The Holiday Inn Central is located at 1201 West 94th Street, Bloomington, Minnesota.

FOR FURTHER INFORMATION CONTACT: Dr. Harold S. Ricker, Staff Director, National Organic Standards Board, room 4006-South Building, P.O. Box 96456, Washington, DC 20090-6456. Telephone:(202) 720-2704.

SUPPLEMENTARY INFORMATION: Section 2119 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Fact Act), Public Law No. 101-624, reqires establishment of a National Organic Standards Board. The purpose of the Board is to assist in the development of standards for substances to be used in organic production and handling and to advise the Secretary on any other aspects of the implementation of Title XXI of the Fact Act. The NOSB met for the first time in Washington, DC, in March and formed six committees to work on various aspects of the Program. The committees are: Crop Standards, Livestock Standards, Processing, Labeling and Packaging, National Materials List, International Issues, and Accreditation.

Purpose and Agenda

The purpose of the joint meeting of the International and Accreditation Committees is to receive input and begin the development of a working model for organic certification accreditation pursuant to sections 2115 and 2116 of the Organic Foods Production act of 1990. The Board will also discuss EC regulations concerning importation of organic products into the EC and how they may be relevant to section 2106(b) of the Organic Foods Production Act concerning products imported into the United States. The Accreditation Committee will begin to focus on:

(1) The criteria for certifier accreditation; and

(2) The process for certifier accreditation.

The joint meeting of the Crops, Livestock, and Processing Committees with the Materials Committee is to bring all committees that have a specific interest in materials, up-to-date on work that has been underway in the industry. Specifically, they will focus on efforts to obtain consensus on materials and to look at an approach that is being developed to help resolve contentious issues. The individual committees will also have separate sessions to begin to formulate plans to review and secure needed input on their specific responsibilities. For example, the Livestock Committee will get a report on the status of livestock production standards and the results of a recent survey of 900 interested parties.

Final agendas will be available on April 22, 1992. Persons requesting copies should contact Mrs. Fox at the above address or telephone number.

Pursuant to § 101-6.1015 of the Federal Advisory Committee regulation (41 CFR 101-6.1015) the meetings of the committees under the National Organic Standards Board are being announced with less than 15 days notice. The National Organic Standards Board is a new advisory committee which had its first meeting on March 23, 1992. At that time, six subcommittees were formed and it was decided that in order to properly carry out their functions meetings should be held on April 30 and May 4, 1992. Facilities for the meetings have already been reserved and committee members are prepared to attend. It would, therefore, be contrary to the public interest and to the interest of the committees and the Department, to postpone the meetings in order to allow for a 15 day notice.

Type of Meeting

The meetings will be open to the public, although seating will be limited. Written comments should be forwarded to Dr. Harold S. Ricker at the above address or FAXED to (202) 690-0330.

Dated:April 28, 1992.

Daniel Haley,

Administrator.

[FR Doc. 92-10230 Filed 4-29-92; 8:45 am]

BILLING CODE 3410-02-M

Federal Grain Inspection Service

Designation of the Champaign (IL) Agency

AGENCY: Federal Grain Inspection Service (FGIS), Agriculture.

ACTION: Notice.

SUMMARY: FGIS announces the designation of Champaign-Danville Grain Inspection Departments, Inc. (Champaign), to provide official grain inspection services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: June 1, 1992.

ADDRESSES: Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the December 2, 1991, **Federal Register** (56 FR 61223), FGIS announced that the designation of Champaign ends on May 31, 1992, and asked persons interested in providing official services within the specified geographic area to submit an application for designation. Applications were to be postmarked by January 2, 1992.

There were three applicants: Champaign, Decatur Grain Inspection, Inc. (Decatur), and Thomas C. King and Gary Walker, proposing to do business as Champaign Grain Inspection Service (King/Walker). Champaign applied for the entire area currently assigned to them, except for: Moultrie Grain Association, located in Lovington, Moultrie County, Illinois (located inside Decatur's area). Decatur, a currently designated agency, applied for the entire area currently assigned to Champaign, but indicated that they would accept a portion of the area. Champaign and Decatur are contiguous agencies. King/Walker applied for the entire area currently assigned to Champaign.

FGIS named and requested comments on the applicants for designation in the Champaign geographic area in the February 3, 1992, **Federal Register** (57 FR 3985). Comments were to be postmarked by March 19, 1992. FGIS received nine comments by the deadline from grain firms currently served by Champaign. Five grain firms supported designation of Champaign based on good service to their elevators, and acquaintance. Four grain firms supported designation of King/Walker based on a good working relationship and acquaintance. Mr. Walker is currently a licensed inspector with Champaign, and Mr. King is a former Champaign licensed inspector.

FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and according to section 7(f)(1)(B), determined that Champaign is better able than any other applicant to provide official grain inspection services in the geographic area for which it applied, and that Decatur is better able than any other applicant to provide official grain inspection services in the geographic area for which it is designated as specified below.

Effective June 1, 1992, and ending May 31, 1995, Champaign-Danville Grain Inspection Departments, Inc., is designated to provide official inspection services in the above specified geographic area.

Effective June 1, 1992, and ending December 31, 1993, Decatur Grain Inspection, Inc., is designated to provide official inspection services at Moultrie Grain Association, located in Lovington, Moultrie County, Illinois, in addition to the area they are already designated to serve.

Interested persons may obtain official services by contacting Champaign at 217-398-0723 and Decatur at 217-429-2466.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 24, 1992.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 92-10096 Filed 4-30-92; 8:45 am]

BILLING CODE 3410-EN-F

Request for Applications from Persons Interested in Designation to Provide Official Services in the Geographic Area Presently Assigned to the Cairo (IL) Agency

AGENCY: Federal Grain Inspection Service (FGIS), Agriculture.

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designation of Cairo Grain Inspection Agency, Inc. (Cairo), will end October 30, 1992, according to the Act, and FGIS is asking persons interested in providing official services in the specified geographic area to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before June 1, 1992.

ADDRESSES: Applications must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. Telecopier (FAX) users may send their application to the automatic telecopier machine at 202-720-1015, attention: Homer E. Dunn. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes FGIS' Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

FGIS designated Cairo, located at 4007 Sycamore Street, Cairo, IL, to provide official grain inspection services under the Act on November 1, 1989.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act. The designation of Cairo ends on October 31, 1992.

The geographic area presently assigned to Cairo, in the States of Illinois, Kentucky, and Tennessee, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Randolph County (southwest of State Route 150 from the Mississippi River north to State Route 3); Jackson County (southwest of State Route 3 southeast to State Route 149; State Route 149 east to State Route 13; State Route 13 southeast to U.S. Route 51; U.S. Route 51 south to Union County); and Alexander, Johnson, Hardin, Massac, Pope, Pulaski, and Union Counties, Illinois.

Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Livingston, Lyon, Marshall, McCracken, and Trigg Counties, Kentucky.

Benton, Dickson, Henry, Houston, Humphreys, Lake, Montgomery, Obion, Stewart, and Weakley Counties, Tennessee.

Exceptions to Cairo's assigned geographic area are the following locations inside Cairo's area which have been and will continue to be serviced by the following official agency: Memphis Grain and Hay Association: Continental Grain Co., and West Tennessee Soya, both in Tiptonville, and Planters Gin, Ridgely, all in Lake County, Tennessee.

Interested persons, including Cairo, are hereby given the opportunity to apply for designation to provide official services in the geographic area specified above under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning November 1, 1992, and ending October 31, 1995. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 23, 1992.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 92-10100 Filed 4-30-92; 8:45 am]

BILLING CODE 3410-EN-F

Request for Comments on the Applicants for Designation in the Geographic Areas Currently Assigned to the Fremont (NE) and Titus (IN) Agencies

AGENCY: Federal Grain Inspection Service (FGIS), Agriculture.

ACTION: Notice.

SUMMARY: FGIS requests interested persons to submit comments on the applicants for designation to provide official services in the geographic areas currently assigned to Fremont Grain Inspection Department, Inc. (Fremont), and Titus Grain Inspection, Inc. (Titus).

DATES: Comments must be postmarked, sent by telecopier (FAX), or electronic mail on or before June 15, 1992.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36HDUNN]. ATTMAIL and FTS2000MAIL users may respond to !A36HDUNN. Telecopier (FAX) users may send responses to the automatic telecopier machine at 202-720-1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the March 2, 1992, **Federal Register** (57 FR 7360), FGIS asked persons interested in providing official services in the Fremont and Titus geographic areas to submit an application for designation. Applications were to be postmarked by April 1, 1992. Titus applied for designation in the entire area currently assigned to them. Fremont applied for designation in the entire area currently assigned to them, except for: Juergens Produce and Seed, and Farmers Grain and Lumber Company, both in Carroll, Carroll County, Iowa (located in Central Iowa Grain Inspection Service, Inc.'s, area). Central Iowa applied for designation to serve Juergens Produce and Seed, and Farmers Grain and Lumber Company, both in Carroll, Carroll County, Iowa, in addition to the area they are already designated to serve. The Fremont and Central Iowa agencies are contiguous official agencies.

FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants for designation. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the **Federal Register**, and FGIS will send the applicants written notification of the decision.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 23, 1992.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 92-10099 Filed 4-30-92; 8:45 am]

BILLING CODE 3410-EN-F

Forest Service

Lake Isabella Management Plan, Sequoia National Forest, Kern County, CA; Revision of the Intent To Prepare an Environmental Impact Statement

This is a revision to the notice of intent to prepare an environmental impact statement for a Lake Isabella Management Plan, published on Thursday, August 29, 1991 in the **Federal Register** located on pages 42717-42718. The purpose of this revision is to establish that the Lake Isabella Management Plan will be an amendment to the Sequoia National Forest Land and Resource Management Plan. Secondly, this revision is a notification that the responsible official has changed to Sequoia National Forest Supervisor Sandra Key.

Dated: April 23, 1992.

Sandra H. Key,

Forest Supervisor.

[FR Doc. 92-10152 Filed 4-30-92; 8:45 am]

BILLING CODE 3410-11-M

Inyo National Forest; Mono Basin National Forest Scenic Area Advisory Board; Meeting

The Mono Basin National Forest Scenic Area Advisory Board will meet at 9 a.m. on May 29, 1992 at the new Scenic Area Visitor Center in Lee Vining, California. The agenda of the meeting will include:

1. General Update on such items as Scenic Area Plan implementation, plans for the new Visitor Center, summary of past activities, upcoming activities, and water issues.
2. Presentation on creek restoration efforts.
3. Questions and Answers regarding management of the Scenic Area.

The meeting will be open to the public. Persons who wish to attend and make oral presentation should notify Dennis W. Martin, Forest Supervisor, Inyo National Forest, 873 N. Main Street, Bishop, California, 93514, Telephone: (619) 873-2400. Written statements may be filed with the Committee before or after the meeting.

The Committee has established the following rules for public participation: After the Board has completed discussion of each topic, the public will be allowed time for questions or comments.

Dated: March 24, 1992.

Dennis W. Martin,

Forest Supervisor and Chairman.

[FR Doc. 92-10163 Filed 4-30-92; 8:45 am]

BILLING CODE 3410-11-M

Delegation of Authority to Director, Recreation and Lands, Intermountain Region

AGENCY: Forest Service, USDA.

ACTION: Noticed; delegation of authority.

SUMMARY: The Intermountain Region of the Forest Service hereby gives notice of the delegation of authority by the Regional Forester to the Director, Recreation and Lands, to perform certain transactions related to the granting and terminating of easements on National Forest System lands under authority of the Federal Land Policy and Management Act of October 21, 1976.

EFFECTIVE DATE: June 1, 1992.

FOR FURTHER INFORMATION CONTACT: Lynn Bidlack, Recreation and Lands Staff, Federal Building, 324 25th Street, Ogden, UT 84401, (801) 625-5141.

SUPPLEMENTARY INFORMATION: Pursuant to 36 CFR 251.52 and the delegation of authority from the Chief of the Forest Service set forth in Forest Service Manual section 2733.04b, the Regional Forester of the Intermountain Region has delegated authority to the Director, Recreation and Lands, to issue easements, reservations, and stipulations for the construction and use of roads under authority of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2743, as amended). This delegation includes authority to issue all easements and reservations for construction and use of roads under this authority, and terminate easements on the occurrence of a fixed or agreed upon condition, event, or time when the easement, by its terms, provides for such termination.

This delegation has been issued in a Regional Supplement to Forest Service Manual, chapter 2730—Road and Trail Rights-of-Way Grants.

Dated: April 23, 1992.

Gray F. Reynolds,

Regional Forester.

[FR Doc. 92-10153 Filed 4-30-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration

Title: Superconductivity

Form Number: Ref. #81; section 705 of the Defense Production Act of 1950, as amended.

Type of Request: New collection

Burden: 150 respondents; 750 reporting hours. Average time per respondent is 5 hours.

Needs and Uses: Information will be collected from 150 developers of superconductivity to assess the status of the superconductivity sector. The purpose is to comply with section 825 of the FY 1991 Defense Authorization Act, which calls for assessments of defense critical technologies.

Affected Public: Businesses or other for-profit institutions; small business or organizations

Frequency: One time

Respondent's Obligation: Mandatory

OMB Desk Officer: Gary Waxman, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room 3208 New Executive Office Building, Washington, DC 20503.

Dated: April 24, 1992.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 92-10195 Filed 4-30-92; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of Export Administration

Electronics Technical Advisory Committee; Partially Closed Meeting

A meeting of the Electronics Technical Advisory Committee will be held May 28, 1992, 9 a.m., Herbert C. Hoover Building, room 1617-M-2, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to semiconductors and related equipment or technology.

Agenda

General Session

1. Opening Remarks by the Chairman and Commerce Representative.
2. Introduction of Members and Visitors.
3. Presentation of Papers by the Public.
4. Special License Proposal—AG/CBW—1B70E.
5. Segment A List Review (Category 3).
6. Other Presentations by Committee Members.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, in order to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials or comments at least one week before the meeting to the address listed below: Ms. Ruth D. Fitts, Technical Advisory Committee Unit, BAX/EA, room 1621, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20203.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Ruth D. Fitts, 202-377-4959.

Dated: April 27, 1992.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of Deputy Assistant Secretary for Export Administration.

[FR Doc. 92-10193 Filed 4-30-92; 8:45 am]

BILLING CODE 3510-DT-M

MCTL Implementation Technical Advisory Committee; Partially Closed Meeting

A meeting of the MCTL Implementation Technical Advisory Committee will be held May 19, 1992 at 9:30 a.m., in the Herbert C. Hoover Building, room 1617 M-2, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis in the implementation of the Militarily Critical Technologies List (MCTL) into the Export Administration Regulations as needed.

Agenda

General Session

1. Opening Remarks by the Chairman.
2. Introduction of Members and Visitors.
3. Presentation of Papers or Comments by the Public.
4. Presentation of Committee Working Group Reports.
5. Discussion of Restructuring Exports Controls.
6. Discussion of Export Control Principles.
7. Discussion of TAC Utilization.
8. Discussion of Nuclear Dual Use Controls.

Executive Session

9. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after

the meeting. However, in order to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the below listed address: Ms. Ruth D. Fitts, TAC Unit/EA/BXA, room 1621, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 28, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Ruth D. Fitts, 202–377–4959.

Dated: April 27, 1992.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of the Deputy Assistant Secretary for Export Administration.

[FR Doc. 92–10194 Filed 4–30–92; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Docket 11–92]

Foreign-Trade Zone 84—Harris County, Texas; Application for Subzone; Tuboscope Vetco International Inc., Tubular Goods Coating Facility, Harris County, Texas

An application has been submitted to the Foreign Trade Zones Board (the Board) by the Port of Houston Authority, grantee of FTZ 84, requesting special-purpose subzone status for export activity at the facilities of Tuboscope Vetco International, Inc. (TVI), Harris County, Texas, which are engaged in the inspection and coating of oil country tubular goods. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 17, 1992.

The TVI facilities consist of a coating plant (Site 1—43 acres) located at 8600 Pine Land Drive, Harris County and an inspection facility (Site 2—194 acres) located at 10222 Sheldon Road, Harris County. The facilities (101 employees) are used to inspect, clean, coat, and warehouse steel oil country tubular goods owned by TVI's customers. The coating process involves applying anti-corrosive materials, such as phenolic, urethane or other plastics, to the interior of the tubes. All of the products processed under zone procedures would be exported.

Zone procedures would exempt Tuboscope's customers from Customs duty payments on the foreign tubular goods and coating materials because they would be exported. The merchandise to be reexported would also be exempt from state and local *ad valorem* taxes. The application indicates that subzone status would help TVI improve its international competitiveness.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 30, 1992. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 15, 1992).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Room 2625, 515 Rusk Street, Houston, Texas 77002

Office of the Executive Secretary, Foreign-Trade Zone Board, U.S. Department of Commerce, room 3716, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: April 27, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–10251 Filed 4–30–92; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

Centers for Disease Control, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pusuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 91–191. *Applicant:* Centers for Disease Control, NCEHIC, Atlanta, GA 30333. *Instrument:* Mass Spectrometer, Model AP III. *Manufacturer:* PE Sciex, Canada. *Intended Use:* See notice at 57 FR 4003, February 3, 1992. *Reasons:* The foreign instrument provides superior selectivity combined with sensitivity (36 picograms) for cotinine and high sample throughput as needed for epidemiologic research. *Advice Submitted By:* National Institutes of Health, March 5, 1992.

Docket Number: 91–193. *Applicant:* The Ohio State University, Columbus, OH 43210–1089. *Instrument:* Grinding (Lapping) Machine, Model ML–521D. *Manufacturer:* Maruto Instrument Co., Ltd., Japan. *Intended Use:* See notice at 57 FR 1725, January 15, 1992. *Reasons:* The foreign article provides: (1) Specimen grinding between upper and lower diamond lapping plates and (2) stepless control of both lapping pressure and grinding speed for subsequent microscopic and microradiographic analysis. *Advice Submitted By:* National Institutes of Health, March 5, 1992.

Docket Number: 91–195. *Applicant:* University of Georgia Complex, Athens, GA 30602. *Instrument:* Mass Spectrometer, Model API III. *Manufacturer:* PE-Sciex, Canada. *Intended Use:* See notice at 57 FR 4003, February 3, 1992. *Reasons:* The foreign instrument provides: (1) liquid flow rate to 200 μl per minute, (2) a heated nebulizer for flows to ml per minute and (3) sensitivity to 5.0 picomoles of reserpine at a flow of 1 ml per minute with a S/N ratio of 5:1. *Advice Submitted By:* National Institutes of Health, March 24, 1992.

Docket Number: 91-203. *Applicant:* University of California, Santa Barbara, Santa Barbara, CA 93106. *Instrument:* Pulsed Amplitude Modulated Fluorometer, Model PAM-101. *Manufacturer:* Heinz Walz, GmbH, Germany. *Intended Use:* See notice at 57 FR 6000, February 19, 1992. *Reasons:* The foreign instrument provides battery operation outdoors in high level ambient light (such as sunlight) with 10.0 μs resolution for pulse-modulated time-resolved fluorescence. *Advice Submitted By:* National Institutes of Health, March 24, 1992.

Docket Number: 92-002. *Applicant:* Bigelow Laboratory for Ocean Sciences, W. Boothbay Harbor, ME 04575. *Instrument:* Multi-Channel Calorimeter, Model MKIII. *Manufacturer:* Chemlab Instruments, United Kingdom. *Intended Use:* See notice at 57 FR 4004, February 3, 1992. *Reasons:* The foreign instrument provides shipboard measurements of six chemical nutrients at low concentrations in seawater with: (1) A fiber optic link with the light source, (2) a single interference filter and (3) a single wideband photodetector. *Advice Submitted By:* National Oceanic and Atmospheric Administration, March 23, 1992.

Docket Number: 92-003. *Applicant:* University of California, Los Alamos, NM 87545. *Instrument:* Electron Microprobe, Model SX-50 *Manufacturer:* Cameca, France. *Intended Use:* See notice at 57 FR 6000, February 19, 1992. *Reasons:* The foreign instrument provides an intense electron beam to excite characteristic x-rays of a sample phase down to 1.0 μm area. *Advice Received From:* National Institute of Standards and Technology, October 23, 1991 (comparable case).

The National Institutes of Health, National Oceanic and Atmospheric Administration and National Institute of Standards and Technology advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-10252 Filed 4-30-92; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

[Project I.D. No. 06-10-92012-01]

Business Development Center Applications: Laredo MBDC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $357,000 in Federal funds, and a minimum of $63,000 in non-Federal (cost sharing) contributions from September 1, 1992 to August 31, 1993. An amount of $17,000 has been allocated for the audit fee for compliance OMB Circular A-133. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contribtutions or combinations thereof. The MBDC will operate in the Laredo, Texas MSA geographic service area with a Rural Development initiative to extend service to 19 counties. In addition, the MBDC will operate an Export Trade initiative. The funding breakdown is as follows: $165,000 Federal and $29,118 non-Federal for Laredo MSA and $75,000 Federal and $13,235 non-Federal for the Rural Development initiative, $100,000 Federal and $17,647 non-Federal for Export Trade initiative and $17,000 Federal and $3,000 non-Federal for audit . The applicant must provide form SF-424A (Budget & Narrative) for (1) the Laredo MSA, (2) the Rural Development initiative, (3) Export Trade initiative and (4) a combined budget for the entire project. In addition, the applicant must provide a TPP for (1) the MSA, (2) the Rural Development initiative, (3) the Export Trade initiative, and(4) a combined TPP for the entire project.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funded organizations shall identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each category in the evaluation criteria to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget period. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the

availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance, with OMB Circular A-129, "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 Pub. L. 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreement" and SF-LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101-121, which generally prohibits recipients of Federal contracts, grants, and loans, from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. Form CD-5111, "Certifications Regarding Debarment, Suspension and Other Responsibility Matter; Drug-Free Workplace Requirements and Lobbying" and, when applicable, the SF-LLL, are required.

CLOSING DATE: The closing date for applications is May 31, 1992. Applications must be postmarked on or before May 31, 1992.

ADDRESSES: Please mail completed application to the following address: Minority Business Development Agency, Chicago Regional Office, 55 E. Monroe Street, suite 1440, Chicago, Illinois 60603.

FOR APPLICATION KIT OR OTHER INFORMATION CONTACT: Minority Business Development Agency, Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767-8001.

A pre-bid conference will be held on May 8, 1992 at the Webb County Courthouse, Central Jury Room 1100 Victoria, Laredo, Texas 78040 at 1 p.m.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: April 24, 1992.

Melda Cabrera,

Regional Director, Dallas Regional Office.

[FR Doc. 92-10162 Filed 4-30-92; 8:45 am]

BILLING CODE 3510-21-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement list commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 1, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On January 31, February 29, March 6 and 20, 1992 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (57 FR 3750, 6814, 8115/6 and 9691) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities or services to the Government.

2. The action will not have severe economic impact on current contractors for the commodities or services.

3. The action will result in authorizing small entities to furnish the commodities or services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities or services proposed for addition to the procurement list.

Accordingly, the following commodities and services are hereby added to the procurement list:

Commodities

Strap, Webbing
5340-00-889-5595
(Remaining Government Requirement)
Badge, Qualification
8455-01-113-2631

Services

Janitorial/Custodial, Marine Corps Logistics Base, Albany, Georgia
Janitorial/Custodial, Rattlesnake National Recreation Area, Maclay Flat and Fort Fizzle, Missoula Ranger District, Missoula, Montana
Janitorial/Custodial, Federal Building, Washington & Linden Streets, Scranton, Pennsylvania

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-10253 Filed 4-30-92; 8:45 a.m]

BILLING CODE 6820-33-M

Procurement List Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 1, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters would identify the statement(s) underlying the certification on which they are providing additional information

It is proposed to add the following commodities and services to the Procurement List:

Commodities

Tarpaulin, Support Arm
5815-01-108-9180
Nonprofit Agency: Skills, Inc., Seattle, Washington
Binder, Looseleaf, Ring
7510-01-278-4129
7510-01-278-4131
Nonprofit Agency: South Texas Lighthouse for the Blind, Corpus Christi, Texas
Compound, Corrosion Preventive
8030-01-045-4780
Nonprofit Agency: Lighthouse for the Blind, St. Louis, Missouri
Apron, Disposable
8415-01-012-9164
Nonprofit Agency: Industrial Opportunities, Inc. Marble, North Carolina

Services

Janitorial/Custodial, Southeast Federal Center, Building at 49 L Street, SE, Washington, DC
Nonprofit Agency: Davis Memorial Goodwill Industries, Washington, DC
Janitorial/Custodial, Federal Building, U.S. Courthouse and Post Office, 911 Jackson Avenue, Oxford, Mississippi
Nonprofit Agency: Allied Enterprises of Oxford, Oxford, Mississippi

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-10254 Filed 4-30-92; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in CRB International Commodity Index futures and options. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before June 1, 1992.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CBT CRB International Commodity Index futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202-254-7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any persons interested in submitting written data, views, or arguments on the terms and conditions of the proposed contracts, or with respect to other materials submitted by the CBT in support of the applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on April 28, 1992.

Gerald Gay,

Director.

[FR Doc. 92-10258 Filed 4-30-92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the

following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Department of Defense Medical Examination Review Board body fat determination; DD Form X183.

Type of Request: New collection.

Average Burden Hours/Minutes Per Response: 13 Minutes.

Responses per Respondent: 1.

Number of Respondents: 3,000.

Annual Burden Hours: 660.

Annual Responses: 3,000.

Needs and Uses: This form is needed to determine medical acceptability for entry into the military service academies. When applicants exceed weight standards for their height, a body fat determination must be obtained before final medical acceptability can be determined. The respondents are usually high school age males and females.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington Virginia 22202-4302.

Dated: April 27, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-10157 Filed 4-30-92; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Child's annuitant's physicians certificate; AF Form 3118; OMB No. 0701-0091.

Type of Request: Reinstatement.

Average Burden Hours/Minutes per Response: 12 Minutes.

Responses per Respondent: 1.

Number of Respondents: 240.

Annual Burden Hours: 48.

Annual Responses: 240.

Needs and Uses: This form is used by physicians to certify the physical or mental disability of a child, of a deceased retiree, who is eligible to receive an annuity. A physician must certify the disability before the annuity is paid. If the disability is temporary the certificate must be submitted every two years.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington Virginia 22202-4302.

Dated: April 27, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-10158 Filed 4-30-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Intent to Prepare an Environmental Impact Statement for the Realignment of Naval Activities to the Naval Air Warfare Center Aircraft Division, Patuxent River Naval Air Station, Lexington Park, MD

Pursuant to section 102(2)(c) of the Naval Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500-1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) for the realignment of Navy activities from Warminster, Pennsylvania, and Trenton, New Jersey, to the Naval Air Warfare Center Aircraft Division (NAWC AD) at Patuxent River Naval Air Station (NAS), Lexington Park, Maryland.

The proposed action is the relocation of activities and aircraft from Warminster, Pennsylvania, and Trenton, New Jersey, to new locations at NAS Patuxent River. Currently NAS maintains over 5.4 million square feet of building area with primary space devoted to research, development, testing, and evaluation (RDT&E). Housing and community facilities for military personnel also exist on NAS.

The realignment imposes total facilities requirements of approximately 1,000,000 square feet, of which approximately 500,000 square feet would be in new construction. This requirement would be met through the utilization of existing space and new construction at NAS Patuxent River.

This realignment is authorized by the Defense Base Closure and Realignment Commission under the authority of The Defense Closure and Realignment Act of 1990 (Public Law 101-510, title XXIX). The EIS will discuss environmental impacts resulting from the proposed action associated with the construction of new facilities, and the increase of civilian/military personnel working and living in the area. Environmental issues, including but not limited to construction and operation impacts on cultural resources, terrestrial habitats, stormwater runoff, noise, and air quality will be addressed, along with community services such as school capacity, infrastructure, and traffic. Consistent with base closure legislation, the possible effects of closure/realignment at Warminster and Trenton will not be addressed in this EIS. Eventual disposal and reuse of the Warminster installation will be discussed in future environmental documentation in compliance with NEPA.

The Navy will initiate a scoping process to determine the scope of issues to be addressed and for identifying significant issues related to this action. The Navy will hold a Public Scoping Meeting on May 15, 1992, beginning at 7:30 p.m. at the Carter Office Building in Leonardtown, Maryland. This meeting will be advertised in southern Maryland tri-county area newspapers.

A formal presentation will precede requests for public comment. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed during preparation of the EIS.

In the interest of time, each speaker will be asked to limit their oral comments to five minutes.

Agencies and the public are also invited and encouraged to provide written comment in addition to, or in lieu of, oral comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentor believes the EIS should address. Written statements and or questions regarding the scoping process should be mailed no later than May 30, 1992, to Commanding Officer, Naval Air Station, Bldg. 407, Patuxent River, Maryland, 20670-5409, (Attn: Larine Barr), telephone (301) 862-7512.

Dated: April 27, 1992.

Wayne T. Baucino,

Alternate Federal Register Liaison Officer.

[FR Doc. 92-10166 Filed 4-30-92; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 92-22-NG]

AG-Energy, L.P., Application To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed by AG-ENERGY, L.P. (AG-ENERGY) on February 18, 1992, and amended on April 2, 1992, requesting authorization to import from Canada up to 17.5 MMcf (17,500 MMBtu) per day of natural gas, up to a term aggregate of 95.8 Bcf, over a 16-year and 2-month period beginning on or about September 1, 1993, and ending no later than October 31, 2009. The imported gas would be consumed in a 79-megawatt cogeneration facility to be constructed by AG-ENERGY at the New York State Psychiatric (NYSP) Center in Ogdensburg, New York. AG-ENERGY would import the gas at the existing interconnection between the Iroquois Gas Transmission System (IGTS) and TransCanada Pipelines (TCPL) at the U.S.-Canada border near Iroquois, Ontario and Waddington, New York.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127.

Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, June 1, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Peter Lagiovane, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6116.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: AG-ENERGY is a limited partnership comprised of AG-ENERGY, Inc., a New York corporation headquartered in New York City, and Energy Factors, Inc., a Delaware corporation headquartered in San Diego, California. The electricity generated by the proposed cogeneration facility will be sold to Niagara Mohawk Power Corporation, the second largest public utility in New York State, under the terms of a power purchase agreement dated December 29, 1986, between AG-ENERGY Inc. and Niagara Mohawk. The facility will also generate up to 70,000 pounds of steam per hour to be sold to the NYSP Center for processing and heating purposes. The cogeneration facility will supply all of the Center's steam requirements.

AG-ENERGY will purchase the gas under the terms of a sales agreement dated October 14, 1991, with Home Oil Company Limited (Home). The agreement provides for firm deliveries of a maximum daily quantity (MDQ) of 16.5 MMcf, plus the fuel gas requirements for the pipeline transportation of the natural gas to AG-ENERGY's cogeneration facility. The point of delivery for the natural gas sold by Home to AG-ENERGY Inc. will be the interconnection of the pipeline systems of TCPL and NOVA Corporation of Alberta (NOVA) near Empress, Alberta. The contract extends for fifteen years from the date of the first firm delivery when that delivery occurs on November 1, 1993, or for sixteen years when the first firm delivery occurs on a day other than November 1. Although firm deliveries cannot commence before November 1, 1993, AG-ENERGY can receive up to the MDQ of gas for start-up or testing beginning as early as June 1, 1993, and continuing up to commencement of firm deliveries. The contract requires AG-ENERGY to take 80% of the MDQ during any six-month period beginning November 1 and ending April 30 (or May 1 through October 31) or, during the month immediately following the six-month period, to make up the deficiency on an average daily rate basis. Failing this, AG-ENERGY must pay Home a reservation charge equal to $0.25 times the deficiency volumes. The reservation charge is subject to a 4% annual adjustment.

The contract price AG-ENERGY will pay to Home consists of two components, a commodity charge and an "upstream" transportation charge. The charge for any natural gas purchased for start-up and testing purposes prior to November 1, 1993, will be $1.75 (Cdn.) per MMBtu plus all applicable transportation charges (commodity and demand), calculated on a 100% load factor basis. The commodity charge for firm sales thereafter is specified in Schedule "A" of the contract and ranges from $1.82 per MMBtu (Cdn.) in the first pricing year (November 1, 1993, to October 31, 1994) to $5.26 in the last pricing year (November 1, 2009, to October 31, 2010). The two-part transportation component of the contract price includes both demand and commodity charges, calculated on a 100% load factor basis, and will reflect, as during the testing phase, the cost to Home of transporting the natural gas on the NOVA pipeline to the interconnecting pipeline facilities of TCPL near Empress, Alberta. As of January 1, 1994, AG-ENERGY estimates the border price will be $2.61 (U.S.), comprised of a transportation charge of $1.06 and a commodity charge of $1.55.

AG-ENERGY asserts it has freely negotiated the agreement on an arms-length basis with Home and believes that the pricing structure, although not renegotiable, is consistent with project economics and reflects a reasonable assessment of market conditions over the life of the agreement. The agreement does require Home to reduce AG-ENERGY's demand charges proportionally if Home fails to deliver AG-ENERGY's nomination or a portion thereof up to the maximum daily quantity (MDQ) of 16.5 MMcf, except for reasons of force majeure. Home can deliver an alternative fuel of equivalent heating value such as No. 2 heating oil or propane; however, the alternate source of fuel shall be at AG-ENERGY's discretion in order to allow AG-ENERGY to comply with air permit

requirements. Home must reimburse AG–ENERGY an amount equaling the difference between the costs and expenses of acquiring and transporting to the cogeneration facility the replacement supply of natural gas, or alternate fuels, and the costs and expenses that AG–ENERGY would have incurred had Home delivered the shortfall amount under the terms of the agreement. In the event of a force majeure affecting either seller or buyer, AG–ENERGY's obligation to pay demand charges would depend on Home's obligation to pay the related transportation charge.

AG–ENERGY asserts the supply of natural gas under the agreement with Home is secure. Based on reserve information filed with the Canadian National Energy Board, Home has combined proved and probable natural gas reserves of 1.2 Tcf. Moreover, AG–ENERGY states that the purchase agreement with Home contains provisions designed to ensure that Home remains able to supply the natural gas contracted for over the life of the Agreement.

AG–ENERGY is responsible for arranging transportation of the gas from the delivery point at Empress, Alberta, through the TCPL, IGTS, and St. Lawrence pipelines to the cogeneration facility at Ogdensburg, New York. AG–ENERGY signed a Precedent Agreement with St. Lawrence on August 9, 1991, and is currently negotiating similar agreements with TCPL and IGTS. Under the terms of its agreement with AG–ENERGY, St. Lawrence will construct a 12-mile pipeline from its interconnection with the Iroquois pipeline in Lisbon, N.Y. to the cogeneration facility.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In a long-term arrangement such as this, other matters that will be considered in making a public interest determination include need for the gas and security of the long-term supply. Parties, especially those that may oppose this application, should comment on these issues as set forth in the policy guidelines regarding the requested import authority. The applicant asserts that imports made under the proposed arrangement would be competitive and otherwise consistent with DOE import policy. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if the requested import arrangement is approved, the authorization would be conditioned on the filing of quarterly reports indicating volumes imported and the purchase price in order to facilitate the monitoring of DOE's natural gas import program.

NEPA Compliance

National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notice of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notice of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of AG–ENERGY's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on April 27, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–10242 Filed 4–30–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–49–NG]

CU Energy Marketing Inc., Application for Blanket Authorization to Import Natural Gas From Canada

AGENCY: Department of Energy Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on April 10, 1992, by CU Energy Marketing Inc. (CUEM) requesting blanket authorization to import up to 200 Bcf of natural gas from Canada over a two-year period beginning on the date of first delivery after June 16, 1992, the day which CUEM's current two-year blanket import authorization expires. See DOE/ERA Opinion and Order No. 146, 1 ERA ¶70,669 (September 23, 1986). CUEM intends to use existing facilities, and will submit quarterly reports of its transactions.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, June 1, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478.

FOR FURTHER INFORMATION CONTACT:
Susan K. Gregersen, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-070, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0063.
Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: CUEM, a Delaware corporation with its principal place of business in Alberta, Canada, is an indirect subsidiary of ATCOR Resources Ltd., a Canadian corporation. CUEM requests authority to continue to import gas from Canada, either for its own account or on behalf of others, for sale to local distribution companies, industrial end users, electric utilities, pipelines and other marketers. The gas will be purchased under short-term, market-responsive contracts, and will be imported at existing points along the international border.

The decision on the request for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties should comment on the issue of competitiveness as set forth in those guidelines. CUEM asserts the proposed arrangement is competitive. Parties opposing CUEM's request for import authorization bear the burden of overcoming this assertion.

NEPA Compliance. The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comments Procedures. In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of CUEM's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on April 27, 1992.

Charles F. Vacek,
Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-10243 Filed 4-30-92; 8:45 am]
BILLING CODE 6450-01-M

[FE Docket No. 91-113-NG]

Tangram Transmission Corporation; Order Authorizing Natural Gas Exports to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order authorizing natural gas exports to Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Tangram Transmission Corporation authorization to export up to 146 Bcf of natural gas to Mexico beginning on the date of first export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC April 24, 1992.

Charles F. Vacek,
Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-10244 Filed 4-30-92; 8:45 am]
BILLING CODE 6450-01-M

Energy Information Administration

Form EIA-767, Steam-Electric Plant Operation and Design Report

AGENCY: Energy Information Adminstration, Department of Energy.

ACTION: Notice of the Proposed Extension of the Form EIA-767, "Steam-Electric Plant Operation and Design Report," and Solicitation of Comments.

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Pub. L. Number 96-511, 44 U.S.C. 3501 *et seq.),* conducts a consultation program to provide the general public with an opportunity to comment on proposed and continuing reporting forms. This program ensures that requested data can be provided in the desired format, reporting burden is minimized, reporting

forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed extension to the Form EIA-767, "Steam-Electric Plant Operation and Design Report."

DATES: Written comments must be submitted by June 1, 1992. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the DOE contact listed below of your intention to do so, as soon as possible.

ADDRESSES: Send written comments to Mr. Al Breuel (EI-521), Energy Information Administration, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 254-5628.

FOR FURTHER INFORMATIN OR TO OBTAIN COPIES OF THE PROPOSED FORMS AND INSTRUCTIONS: Requests for additional information or copies of the form and instructions should be directed to Mr. Breuel at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93-275) and the Department of Energy (DOE) Organization Act (Pub. L. No. 95-91), the Energy Information Administration (EIA) is obliged to publish, and otherwise make available to the public, high-quality statistical data that reflect current and prospective electric power plant operations.

The Form EIA-767 remains an annual form that collects data on the operation and design of steam-electric plants. The form collects data required by the following sponsors: the Environmental Protection Agency (EPA), the DOE Office of Policy, Planning and Analysis (PE), the DOE Office of Fossil Energy (FE), and the Bureau of Economic Analysis (BEA) of the Department of Commerce. Most of the data elements on this form are required by more than one sponsor. EPA uses the data to develop, assess, reform, and enforce the regulations required by the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.),* the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.),* and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 *et seq.).* PE uses the data to assess the environmental impacts of electric energy plans and projections, and the impact of environmental regulations on the generation of electric power. EPA, FE, and PE use the data to perform emission trends and analyses required of them as participants in the Interagency Acid Precipitation Task Force established by the Energy Security Act of 1980 (42 U.S.C. 8901 *et seq.).* FE uses the data to evaluate the inventory of pollution control technology and generation technology. BEA uses the data to assess the impact of pollution abatement and control expenditures on the Gross National Product. EIA, in coordination with the sponsors, is responsible for collecting and processing the data. Within EIA, the data are used to develop a comprehensive electric power data base that supports EIA models. Other data users include Congress, State environmental regulatory bodies, trade associations, universities, manufacturers, electric utilities, and other Federal agencies.

II. Current Actions

In keeping with its mandated responsibilities, EIA proposes to extend the Form EIA-767 for 3 years through December 31, 1995.

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed extension within 30 days of the publication of the notice. The following general guidelines are provided to assist in the preparation of responses.

As a potential respondent: A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can data be submitted in accordance with the response time specified in the instructions?

D. Public reporting burden for this collection is estimated to average 84 hours per response. How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of other Federal, State, or local agencies that collect similar data? If you do, specify the agency, the data elements, and the means of collection.

As a potential user: A. Can you use data at the levels of detail indicated on the form?

B. For what purposes would you use the data? Be specific.

C. How could the form be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

EIA is also interested in receiving comments from persons regarding their view on the need for the collection of the information contained in this survey.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this survey; they also will become a matter of public record.

Statutory Authorities: Sections 5(a), 13(b), and 52 of Public Law 93-275, Federal Energy Administration Act of 1974, as amended, 15 U.S.C. 764(a), 764(b), 772(b) and 790a.

Issued in Washington, DC April 24, 1992.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 92-10245 Filed 4-30-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4128-5]

Lead Redesignation to Nonattainment; Fayette County, TN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: Sections 107(d)(3) and (d)(5) of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (Pub. L. 101-549, Nov. 15, 1990) (the Act), authorizes EPA to require states to designate areas (or portions of areas) in the state as nonattainment, attainment, or unclassifiable for the National Ambient Air Quality Standard (NAAQS) for lead. On March 13, 1992, EPA notified the Governor of Tennessee that the lead designation for a portion of Fayette County, Tennessee should be revised from unclassifiable to nonattainment, based upon a monitored violation of the NAAQS for lead.

EPA is giving notice to the public of this action as required by section 107(d)(3)(A) of the Act.

ADDRESSES: Copies of EPA's letter to the Governor are available for public inspection and copying during normal

business hours at the following agencies:

Region IV Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365
Division of Air Pollution Control, Tennessee Department of Environment and Conservation, Customs House, 4th floor, 701 Broadway, Nashville, Tennessee 37243-1531

FOR FURTHER INFORMATION CONTACT: Leslie Cox of the EPA Region IV Air Programs Branch at 404-347-2864 (FTS-257-2864) and at the above address.

SUPPLEMENTARY INFORMATION: On April 22, 1991, (56 FR 16274) EPA announced that it had notified the governors of affected states that they should proceed to designate as nonattainment areas those areas that had recorded violations of the National Ambient Air Quality Standard (NAAQS) for lead. EPA published a list of areas that the governors had been requested to designate as unclassifiable if they contained stationary lead sources which EPA believed to be capable of violating the lead NAAQS, but for which existing air quality data was insufficient to designate as attainment or nonattainment. Included in that list was Fayette County, Tennessee. However, a lead value of 4.14 micrograms per cubic meter was reported for the first quarter of 1991 by a monitor adjacent to the lead smelter owned by Ross Metals, located in Fayette County. This value violates the current lead NAAQS of 1.5 micrograms per cubic meter as a quarterly average.

Lead nonattainment areas are generally defined by the county perimeter for the county in which the ambient lead monitors recorded the violation of the lead NAAQS and/or in which a lead source is located. As an alternative, EPA has indicated that states may seek to define boundaries using certain techniques to justify the chosen boundary (56 FR 56694 and 56707, November 6, 1991).

EPA had approved, prior to the identification of the lead NAAQS violation, the following unclassifiable lead area (56 FR 56829, November 6, 1991), consisting of a portion of Fayette County:

An area encompassed by a circle centered on Universal Transverse Mercator coordinate 267.59 East 3881.60 North (Zone 16), with a radius of 1.0 Kilometers.

This area surrounds the lead smelter owned by Ross Metals. EPA believes it is reasonable to rely on the current Fayette County unclassifiable boundary as the nonattainment area boundary since the State had previously demonstrated that this is the area impacted by Ross Metals. However, any ultimate determination will be made after considering any comments from the State of Tennessee, and any comments submitted by the public. Under section 107(d)(3)(B) of the Act, the Governor must submit the lead designation for this area that he deems appropriate no later than 120 days after receipt of EPA's notification.

The EPA must then promulgate the redesignation proposal submitted by the Governor, making such modifications as it deems necessary, no later than 60 days after the aforementioned 120 day time period has expired. Whenever EPA intends to make a modification, the agency will notify the state and provide such state with an opportunity to demonstrate why any proposed modification is inappropriate. EPA shall give such notification no later than 60 days before the date the redesignation is promulgated, including any modification thereto. If the Governor fails to submit the list in whole or in part, EPA shall promulgate the redesignation that is deemed appropriate for the area (or portion thereof) not redesignated by the state.

Any State containing an area designated as nonattainment for lead must submit a State Implementation Plan (SIP) to EPA within 18 months of the nonattainment designation meeting the applicable requirements of part D, title I of the Act (Section 191(a), 42 U.S.C. 7514(a)). The SIP must provide for attainment of the lead standard as expeditiously as practicable, but no later than five (5) years from the date of the nonattainment designation (Section 192(a), 42 U.S.C. 7514a(a)).

Authority: 42 U.S.C. 7401-7642.

Dated: April 20, 1992.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 92-10234 Filed 4-30-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4128-4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 13, 1992, through April 17, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated April 10, 1992 (57 FR 12499).

Draft EISs

ERP No. D-AFS-L65162-ID Rating EC2, Emerald Creek Resource Unit Drainage/Timber Sales, Implementation, Idaho Panhandle National Forests, St. Maries Ranger District, Benewah, Latah and Shoshone Counties, ID.

Summary

EPA expressed concern that the cumulative effects of road construction, timber harvesting, mining and grazing may be understated and that existing Emerald Creek water quality problems may be further exacerbated. Additional information is needed on monitoring, water quality effects, and air quality.

ERP No. D-FHW-E40130-NC Rating EC2, Hickory East Side Thoroughfare Transportation Improvement, US 127 to I-40 east of Hickory and continuing to US 70 in the vicinity of Startown Road, Funding and section 404 Permit, City of Hickory, Catawba County, NC.

Summary

EPA expressed concern for the noise impacts and encouraged FHWA to continue to evaluate noise barriers as mitigation. EPA also requested construction details of the stream relocation and encouraged FHWA to minimize the impact of deforestation.

ERP No. D-NOA-A64054-00 Rating EC2, Summer Flounder Fishery Management Plan Amendment 2, Implementation, Exclusive Economic Zone (EEZ), ME, NH, MA, CO, RI, NY, NJ, PA, DE, MD, and VA.

Summary

EPA supported measures designed to prevent overfishing of the summer flounder and increase spawning stock biomass. EPA expressed concerns in two areas: Marine turtle's mortality and the written presentation of the DEIS. Additional information should be incorporated on monitoring, management, budget and funding.

Final EISs

ERP No. F-BPA-L04501-00, Initial Northwest Power Act, Power Sales and Residential Exchange Contracts, Guidelines and Implementaiton, OR, WA, ID, MT, WY, CA, UT and NV.

Summary

EPA has no objection to the implementation of the proposed project.

ERP No. RR-HUD-A86048-00, 24 CFR part 50—Amendments to Interim Rule

on the Environmental Policy for the HOPE Grant Programs.

Summary

EPA recommended revising the rule to clearly reflect HUD's intentions regarding exemptions. EPA also recommended that HUD provide in the text of the rulemaking the justification upon which the categorical exclusion determination is based.

Dated: April 28, 1992.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 92-10236 Filed 4-30-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4128-3]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5076 OR (202) 260-5075. Availability of Environmental Impact Statements Filed April 20, 1992 Through April 24, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 920132, DRAFT EIS, FHW, NC, US 117 Corridor Improvement Project, US 13/70 at Goldsboro, north to US 301 in Wilson, Funding and Section 404 Permit, Wayne and Wilson Counties, NC, Due: June 15, 1992, Contact: Nicholas L. Graf (919) 856-4356.

EIS No. 920133, DRAFT EIS, IBR, CA, American River Bridge Crossing Project, Construction and Roadway Improvement, Funding, Right-of-Way Approval, Coast Guard Bridge Permit and section 404 Permit, City of Folsom, Sacramento County, CA, Due: July 01, 1992, Contact: Wayne Deason (303) 236-9336.

EIS No. 920134, FINAL EIS, FHW, CA, CA-710/Long Beach Freeway (Formerly CA-7) Construction, I-10/San Bernadino Freeway to I-210/Foothill Freeway, Funding, Los Angeles, CA, Due: June 01, 1992, Contact: James Bednar (916) 551-1310.

EIS No. 920135, FINAL EIS, UAF, CA, Mather Air Force Base Disposal and Reuse, Implementation, Sacramento County, CA, Due: June 01, 1992, Contact: Ltc. Thomas J. Bartol (714) 382-4891.

EIS No. 920136, DRAFT EIS, BOP, AR, Forrest City Federal Correctional Complex (FCC), Construction and Operation, St. Francis County, AR, Due: June 16, 1992, Contact: Patricia K. Sledge (202) 514-6470.

EIS No. 920137, SECOND FINAL EIS COE, PA, Lackawanna River Basin at Olyphant, Flood Protection Plan, Funding and Implementation, Borough of Olyphant, Lackawanna County, PA, Due: June 01, 1992, Contact: Steven Stegner (301) 962-4959.

EIS No. 920138, FINAL EIS, AFS, CA, Cottonwood and Golf Timber Sales, Implementation, Timber Harvesting in the Breckenridge Compartment, Sequoia National Forest, Greenhorn Ranger District, Kern County, CA, Due: June 01, 1992, Contact: Linda Brett (209) 784-1500.

EIS No. 920139, LEGISLATIVE FINAL EIS NPS, AK, Gate of the Arctic National Park and Preserve, Use of All-Terrain Vehicles (ATV) for Subsistence on Park Land, City of Anaktuvuk Pass, AK, Due: June 01, 1992, Contact: John M. Morehead (907) 257-2690.

Amended Notices

EIS No. 920024, DRAFT EIS, FRC, NB, Kingsley Dam Project (FERC. No. 1417) and North Platte/Keystone Diversion Dam (FERC. No. 1835) Hydroelectric Project, Application for Licenses, Near the confluence of the North/South Platters, Keith, Lincoln, Garden, Dawson and Gasper Counties, NB, Due: June 15, 1992, Contact: S. Ronald McKitrick (202) 219-2783.

Dated: April 28, 1992.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 92-10235 Filed 4-30-92; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30331; FRL 4055-1]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by June 1, 1992.

ADDRESSES: By mail submit comments identified by the document control number [OPP-30331] and the registration/file number, attention Product Manager (PM) named in each application at the following address: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H7505C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person: Contact the PM named in each registration at the following office location/telephone number:

Product Manager	Office location/ telephone number	Address
PM10 Richard Mountfort	Rm. 208, CM #2 (703-305-6502).	Environmental Protection Agency 1921 Jefferson Davis Hwy Arlington, VA 22202
PM 18 Phil Hutton	Rm. 213, CM #2 (703-305-7690).	-Do-

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 1021-RAEN. Applicant: McLaughlin Gormley King Company, 8810 Tenth Avenue North, Minneapolis, MN 55427. Product name: Nylar Concentrate 2607. Insecticide. Active ingredient: 2-[1-Methyl-2-(4-phenoxyphenoxy) ethoxy] pyridine 1.30 percent. Proposed classification/Use:

None. For indoor use on fleas in nonfood areas. (PM 10)

2. File Symbol: 1021–RANG. Applicant: McLaughlin Gormley King Co. Product name: Nylar 10EC. Insecticide. Active ingredient: 2-[1-Methyl-2-(4-phenoxyphenoxy) ethoxy] pyridine 10 percent. Proposed classification/Use: None. For control of cockroaches and fleas in the home and nonfood areas of various buildings. (PM 10)

3. File Symbol: 1021–RARO. Applicant: McLaughlin Gormley King Co. Product name: Nylar 50% Concentrate. Insecticide. Active ingredient: 2-[1-Methyl-2-(4-phenoxyphenoxy) ethoxy] pyridine 50 percent. Proposed classification/Use: None. For manufacturing use only. (PM 10)

4. File Symbol: 1021–RAEE. Applicant: McLaughlin Gormley King Co. Product name: Nylar Pressurized Spray 2618. Insecticide. Active ingredients: 2-[1-Methyl-2-(4-phenoxyphenoxy) ethoxy] pyridine 0.015 percent, tetramethrin [(1-cyclohexane-1,2-dicarboximido) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] 0.400 percent, and *cis* + *trans* 3-phenoxybenzyl-(1*RS*, 3*RS*; 1*RS*, 3*SR*)-2;2-dimethyl-3-(2-methylprop-l-enyl) cyclopropanecarboxylate 0.300 percent. Proposed classification/Use: None. For indoor use on fleas, brown dog ticks, and carpet beetles in nonfood areas. (PM 10)

5. File Symbol: 1021–RAEG. Applicant: McLaughlin Gormley King Co. Product name: Nylar Total Release Fogger 2620. Insecticide. Active ingredients: 2-[1-Methyl-2-(4-phenoxyphenoxy) ethoxy] pyridine 0.100 percent, pyrethrins 0.050 percent, *N*-octyl bicycloheptene dicarboximide 0.400 percent, permethrin [(3-phenoxyphenyl) methyl (+ or -) *cis-trans*-3-(2,2-dichloroethenyl) 2,2-dimethylcyclopropanecarboxylate] 0.400 percent, and related compounds 0.035 percent. Proposed classification/Use: None. For control of various insects in the home and nonfood areas of various buildings. (PM 10)

6. File Symbol: 10308–RR. Applicant: Sumitomo Chemical Co., Ltd. c/o Technology Services Group, 1101 17th St., NW., Suite 500, Washington, DC 20036. Product name: Sumilarv Technical Grade. Insecticide. Active ingredient: 2-[1-Methyl-2-(4-phenoxyphenoxy) ethoxy] pyridine 97 percent. Proposed classification/Use: None. For formulating use only. (PM 10)

7. File Symbol: 64296–G. Applicant: EcoScience Corporation, 85 North Whitney St., Amherst, MA 01002. Product name: Bio-Path Roach Control Chamber. Biological Insecticide. Active ingredient: *Metarhizium anisopliae* 0.35 percent. Proposed classification/Use: None. For the control of roaches in residential, commercial, industrial, and institutional areas. (PM 18)

8. File Symbol: 64296–E. Applicant: EcoScience Corp. Product name: Bio-Path Insects Technical. Biological Insecticide. Active ingredient: *Metarhizium anisopliae* 100 percent. Proposed classification/Use: None. For use in manufacture of indoor and outdoor pest control products. (PM 18)

9. File Symbol: 64296–R. Applicant: EcoScience Corporation, 1 Innovation Drive, Worcester, MA 01605. Product name: Bio-Path Fly Control Chamber. Biological Insecticide. Active ingredients: *Metarhizium anisopliae* and 9-tricosene 3.80 and .10 percent respectively. Proposed classification/Use: None. For the control of flies in residential, commercial, agricultural, and food and nonfood indoor areas. (PM 18)

10. File Symbol: 432–TAU. Applicant: Roussel Bio Corporation, 170 Beaver Brook Road, Lincoln Park, NJ 07035. Product name: Bio-Path Technical. Biological Insecticide. Active ingredient: *Metarhizium anisopliae* 100 percent. Proposed classification/Use: None. For use in manufacture of indoor and outdoor residential pest control products. (PM 18)

11. File Symbol: 432–TAR. Applicant: Roussel Bio Corporation, 170 Beaver Brook Road, Lincoln Park, NJ 07035. Product name: Bio-Path Biological Roach Control System. Biological Insecticide. Active ingredient: *Metarhizium anisopliae* 0.35 percent. Proposed classification/Use: None. For the control of roaches in residential, commercial, industrial, and institutional indoor food and nonfood areas. (PM 18)

12. File Symbol: 58971–U. Applicant: Crop Genetics International, 7170 Standard Drive, Hanover, MD 21076. Product name: Cyd-X. Biological Insecticide. Active ingredient: Granular inclusion bodies (GIBS) of the codling moth granulosis virus 0.2 percent. Proposed classification/Use: None. For use against the codling moth on pears, apples, and walnuts. (PM 18)

13. File Symbol: 58971–G. Applicant: Crop Genetics International. Product name: Gusano. Biological Insecticide. Active ingredient: Polyhedral inclusion bodies (PIBS) of the alfalfa looper nuclear polyhedrosis virus 3.5 percent. Proposed classification/Use: None. For the control of caterpillars on vegetables, cotton, alfalfa, wheat, and other food crops and silvaculture (trees of various species). (PM 18)

14. File Symbol: 58971–R. Applicant: Crop Genetics International, 7170 Standard Drive, Hanover, MD 21076. Product name: Spod-X. Biological Insecticide. Active ingredient: Polyhedral inclusion bodies (PIBS) of the beet armyworm nuclear polyhedrosis virus 2.9 percent. Proposed classification/Use: None. For use against the beet armyworm on food crops and floriculture. (PM 18)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Fields Operation Division office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: April 21, 1992.

Frank Sanders,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–10238 Filed 4–30–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–34027; FRL 4057–2]

Pesticide Reregistration Eligibility Document for Sodium and Calcium Hypochlorite; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the final Reregistration Eligibility Document (RED) for sodium and calcium hypochlorite and opens a public comment period. The RED is the Agency's formal regulatory assessment of the health and environmental data base for sodium and calcium hypochlorite and presents the Agency's determination regarding which uses of sodium and calcium hypochlorite are eligible for reregistration.

DATES: Written comments on the sodium and calcium hypochlorite RED must be submitted by June 30, 1992.

ADDRESSES: Three copies of comments identified with the docket number (OPP-34027) should be submitted by mail to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment in response to this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Ruth Douglas for questions concerning product-specific data requirements and labeling at (703) 305-7964. Ms. Karen Samek for questions on the generic database at (703) 308-8051. To request a copy of the RED or a RED Fact Sheet for sodium and calcium hypochlorite, contact the Public Response and Program Resources Branch in rm. 1128, CM #2 at the address given above (703) 305-5805.

SUPPLEMENTARY INFORMATION: The Agency has issued a final Reregistration Eligibility Document for sodium and calcium hypochlorite. Under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate most existing pesticides to make sure they meet current scientific and regulatory standards. Sodium and calcium hypochlorite have a complete generic data base, and the Agency has determined that the registered uses do not cause unreasonable adverse effects to people or the environment. EPA has determined that all products containing sodium and calcium hypochlorite as an active ingredient are eligible for reregistration except those bearing directions for use on sugar syrup and raw sugar (the processed commodity). The uses on sugar syrup and raw sugar are not eligible for reregistration since an appropriate FDA food additive regulation has not been established. All registrants of sodium and calcium hypochlorite have been sent the RED and must respond to the labeling requirements and the product specific data requirements (if applicable) within 8 months of receipt. EPA is issuing the sodium and calcium hypochlorite RED as a final document with a 60-day comment period. The reregistration program is being conducted under congressionally mandated timeframes, and EPA is mindful of the need to make both timely reregistration decisions and involve the public. Although it does not affect the registrants' response due date, the 60-day public comment period provides an opportunity for public input and a mechanism for initiating any necessary amendments to the RED.

Dated: April 13, 1992.

Daniel B. Barolo,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 92-10237 Filed 4-30-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511. OMB approved the collections listed below as specified in the Memorandum Opinion and Order (MO&O), adopted January 21, 1992 and released January 31, 1992 by the Common Carrier Bureau under delegated authority. No changes were made by OMB. The appendices attached to the MO&O have been reprinted to display the OMB control numbers and expiration dates. Copies are available to the public in the Public Reference Room located in room 812 at 2000 L Street, NW., Washington, DC.

Federal Communications Commission

OMB Number: 3060-0395.
Title: ARMIS USOA Report.
Expiration Date: 5/31/94.
Form No.: FCC Report 43-02.
Description: The ARMIS USOA Report collects the operating results of the carriers' total activities for every account in the USOA, as specified in Part 32 of the Commission's Rules. This report also collects financial data concerning cash flows, affiliate transactions, deferred income taxes, and pension costs. The ARMIS USOA Report specifies information requirements in a consistent format and is essential to the FCC to monitor revenue requirements, rate of return, jurisdictional separations and access charges.

Frequency of Response: Annually. The 1991 report filing due date was extended from April 1 to May 21, 1992, ninety days after the Order amending the report in the proceeding AAD 91-46 was published in the **Federal Register.**

Estimated Annual Burden: 50 responses; 240 hours per response; 12,000 hours total.

OMB Number: 3060-0496.
Title: ARMIS Operating Data Report.
Expiration Date: 1/31/95.
Form No.: FCC Report 43-08.
Description: The ARMIS Operating Data Report collects annual statistical data in a consistent format and is essential to the FCC to monitor network growth, usage, and reliability.

Frequency of Response: Annually. Initial report filing due date was extended from April 1 to May 21, 1992, ninety days after the order adopting the report in the proceeding AAD 91-46 was published in the **Federal Register.**

Estimated Annual Burden: 50 responses; 160 hours per response; 8,000 hours total.

OMB Number: 3060-0099.
Title: Annual Report Form M.
Expiration Date: 1/31/95.
Form No.: FCC Form M.
Description: FCC Form M is a paper report comprised of 31 schedules which contain financial, corporate, and statistical data required by the FCC to administer its accounting, joint cost, jurisdictional separations, rate base, and access charge rules.

Frequency of Response: Annually. The FCC Form M filing due date was extended from March 31 to May 21, 1992, ninety days after the Order amending the report in the proceeding AAD 91-46 published in the **Federal Register.**

Estimated Annual Burden: 52 responses; 1400 hours per response; 72,800 hours total.

FOR FURTHER INFORMATION CONTACT: Virginia Brockington, Federal Communications Commission, (202) 634-1861.

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 92-10260 Filed 4-30-92; 8:45 am]
BILLING CODE 6712-01-M

[Report No. 1887]

Petitions for Reconsideration of Actions in Rule Making Proceedings

April 24, 1992.

Petitions for reconsideration have been filed in the Commission rule making Proceedings listed in this public notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452-1422. Oppositions to these petitions must be filed May 18, 1992. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing opposition has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Thief River Falls and Walker, Minnesota) (MM Docket No. 90-544), Number of Petitions Received: 1.

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 92-10261 Filed 4-30-92; 8:45 am]
BILLING CODE 6712-01-M

[Report No. 1888]

Petition for Reconsideration of Actions in Rule Making Proceedings

April 29, 1992.

A petition for reconsideration has been filed in the Commission rule making proceeding listed in this public notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452-1422. Oppositions to this petition must be filed May 18, 1992. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Thief River Falls and Walker, Minnesota) (MM Docket No. 90-544). Number of Petitions Received: 1.

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 92-10262 Filed 4-30-92; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before June 30, 1992.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Information Collections Clearance Officer at the address below; and to Gary Waxman, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395-7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Linda Borror, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2624.

Type: Extension of 3067-0096.
Title: Summary of State and Local Expenses for Emergency Management Assistance.
Abstract: The Emergency Management Assistance 50-50 matching fund grant program requires FEMA Form 85-16, Summary of State and Local Expenses for Emergency Management Assistance, be submitted by States as a request or amended request for a financial contribution. The information constitutes the plan under which program funds will be allocated to the States for State and local civil defense personnel and administrative expenses.
Type of Respondents: State and local governments.
Estimate of Total Annual Reporting and Recordkeeping Burden: 112 Hours.
Number of Respondents: 56.
Estimated Average Burden Time per Response: 2 Hours.
Frequency of Response: Annually.

Dated: April 22, 1992.
Wesley C. Moore,
Director, Office of Administrative Support.
[FR Doc. 92-10240 Filed 4-28-92; 8:45 am]
BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 232-011214-001.
Title: CCNI/Lykes Reciprocal Space Charter & Sailing Agreement.
Parties: Compania Chilena De Navegacion Interoceanica S.A. ("CCNI"), Lykes Bros. Steamship Co., Inc. ("Lykes").
Synopsis: The proposed modification expands the geographic scope of the Agreement to include U.S. Gulf of Mexico ports in the U.S. scope, and ports in Mexico in the foreign scope. The parties have requested a shortened review period.

Agreement No.: 224-200652.
Title: L.A. Cruise Ship Terminals, Inc./Cunard Lines Terminal Agreement.
Parties: L.A. Cruise Ship Terminals, Inc. ("L.A. Cruise"), Cunard Line, Limited ("Cunard").
Synopsis: The Agreement provides for the use by Cunard of terminal facilities and services provided by L.A. Cruise in the Port of Los Angeles.

Dated: April 27, 1992.
By Order of the Federal Maritime Commission.
Joseph C. Polking,
Secretary.
[FR Doc. 92-10164 Filed 4-30-92; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Joseph Samuel Brannen, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 21, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Joseph Samuel Brannen, Inverness, Florida, to acquire an additional 18.93 percent, for a total of 33.32 percent, George Houston Brannen, II, Inverness, Florida, to acquire an additional 19.24 percent, for a total of 33.86 percent, and Margaret Brannen Hagar, Inverness, Florida, to acquire an additional 18.33 percent, for a total of 32.26 percent, of the voting shares of Brannen Banks of Florida, Inc., Inverness, Florida, and thereby indirectly acquire Bank of Inverness, Inverness, Florida.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Bruce A. Erickson, Livingston, Montana; to acquire 27.28 percent of the voting shares of Guaranty Development Company, Livingston, Montana.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. J.F. Justiss, III, Trust, Jena, Louisiana, to acquire an additional 2.96 percent, for a total of 14.83 percent, Amy Williams, Trust, Jena, Louisiana, to acquire an additional 2.96 percent, for a total of 4.74 percent, Adam Williams, Trust, Jena Louisiana, to acquire an additional 2.96 percent, for a total of 4.74 percent, and Jennifer J. Williams, Jena, Louisiana, to acquire an additional 2.96 percent, for a total of 7.12 percent, of the voting shares of JBI Financial Corporation, Jena, Louisiana.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco 94105:

1. Mr. Theodore H. Kruttschnitt, Hillsborough, California; to acquire up to 24.99 percent of the voting shares of Burlingame Bancorp, Burlingame, California, and thereby indirectly acquire Burlingame Bank & Trust Co., Burlingame, California.

Board of Governors of the Federal Reserve System, April 27, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-10180 Filed 4-30-92; 8:45 am]

BILLING CODE 6210-01-F

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

ACTION: Office of Acquisition Policy (V), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0198, General Services Administration Acquisition Regulation Part 525, Foreign Acquisition. Offerors are required to identify whether items are foreign source end products and the dollar amount of import duty for each product.

ADDRESSES: Send comments to Ed Springer, GSA Desk Officer, Room 3235, NEO, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

Annual Reporting Burden

Respondents: 9; responses per respondent: 1: *average hours per response:* .1666; burden hours: 1.5.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, (202) 501-1224.

Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), 7102, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 501-2691, or by faxing your request to (202) 501-2727.

Dated: April 23, 1992.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 92-10151 Filed 4-30-92; 8:45 am]

BILLING CODE 6820-34-M

Office of Business, Industry, and Governmental Affairs; Business Advisory Board

MEETING NOTICE: Notice is hereby given that the General Services Administration (GSA) Business Advisory Board will meet June 11, 1992, from 10 a.m. to 4 p.m. at GSA's Central Office, 18th and F Streets, NW., room 5141A, Washington, DC. Notice is required by the Federal Advisory Committee Act, 5 U.S.C. app. 2, and the implementing regulation, 41 CFR part 101-6.

The purpose of the meeting is to provide a forum for discussion on key business and industry trends, emerging technologies and products, and other issues that may affect GSA's future policy and program formulation. The agenda for this meeting will include discussion on: quality registration, the Americans with Disabilities Act (ADA), and customer satisfaction measurement.

The meeting will be open to the public.

For further information, contact Patricia Jones (202/501-0838) of the Office of Business, Industry, and Governmental Affairs, GSA/AL, Washington, DC 20405.

Dated: April 21, 1992.

Donald C.J. Gray,

Associate Administrator for Business, Industry, and Governmental Affairs, GSA.

[FR Doc. 92-10150 Filed 4-30-92; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Health Services Research Training Advisory Committee; Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (title 5, U.S.C., appendix 2) announcement is made of the following advisory committee scheduled to meet during the month of May 1992:

Name: Health Services Research Training Advisory Committee.

Date and Time: May 11, 1992, 8 a.m.

Place: Bethesda Marriott Hotel, Kensington Conference Suite, 5151 Pooks Hill Road, Bethesda, MD 20814.

Open May 11, 8 a.m. to 8:30 a.m. Closed for remainder of meeting.

Purpose: The Committee is charged with conducting the initial review of research grant applications addressing the implementation of clinical guidelines in large group practices.

Agenda: The open session on May 11 from 8 a.m. to 8:30 a.m. will be devoted to a business meeting covering administrative matters and reports. The closed sessions of the meeting will be devoted to a review of research grant applications addressing the implementation of clinical practice guidelines in large group practices. In accordance with the Federal Advisory Committee Act, title 5, U.S.C., appendix 2 and title 5, U.S.C. 552b(c)(6), the Administrator, Agency for Health Care Policy and Research, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact J. Terrell Hoffeld, D.D.S., Ph.D., Agency for Health Care Policy and Research, suite 602, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone: (301) 227-8449.

Agenda items for all meetings are subject to change as priorities dictate.

Dated: April 22, 1992.

J. Jarrett Clinton,

Administrator.

[FR Doc. 92-10192 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-90-M

Agency for Toxic Substances and Disease Registry

[Announcement Number 207]

Surveillance of Hazardous Substance Emergency Events

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces that cooperative agreement applications will be accepted to conduct surveillance of hazardous substance emergency events. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of Surveillance and Data Systems and Environmental Health. (For ordering a copy of Healthy People 2000, see Section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**)

Authority

This program is authorized in sections 104(i)(1)(E)(9) and (15) of the Comprehensive Environmental Reponse, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act (SARA) [42 U.S.C. 9604 (i)(1)(E)(9) and (15)].

Eligible Applicants

Eligible applicants are the official public health departments of the states and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, the Northern Mariana Islands, American Samoa and federally recognized Indian tribal governments.

Availbility of Funds

Approximately $650,000 is available in fiscal year 1992 to fund up to 11 awards. It is expected that 2 new awards totaling $140,000 and 9 non-competing continuations totaling approximately $510,000 will be made. Awards are expected to range from $50,000 to $70,000 per award (larger states may require additional funds). The awards are expected to begin on or about September 30, 1992, with an anticipated 12-month budget period and a proposed project period of 3 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The primary purpose of this cooperative agreement program is to assist state health departments in developing a state-based surveillance system for monitoring hazardous substance emergency events. This will allow the state health department to better understand the public health impact of hazardous substance emergencies through this added capacity.

The objectives of the surveillance system are to:

(1) Describe the distribution of hazardous substance emergencies within individual states, as well as nationally;

(2) Describe the type and cause of morbidity and mortality experienced by employees, first responders, and the general public as a result of selected hazardous substance emergencies;

(3) Analyze and describe risk factors associated with the morbidity and mortality; and

(4) Develop and propose strategies to reduce subsequent morbidity and mortality when comparable events occur in the future.

Program Requirements

All Hazardous Substance Emergency Event Surveillance (HSEES) will be performed in accordance with the methodology provided in the HSESS protocol. The protocol was developed to meet the objectives outlined under **Purpose.** A copy of the protocol will be provided in the application kit. The following criteria define an emergency event:

A. An uncontrolled or illegal release (as defined by sec. 101(22) or as defined by individual state regulations) or threatened release of a hazardous substance as defined by CERCLA Sections 101(14) and 104(i)(18), [42 U.S.C. 9601(14) (22) and 9604 (i)(18)]; and include:

1. The 200 substances identified by ATSDR to be the most hazardous substances found at Superfund sites, as published in the **Federal Register** on October 20, 1988 [53 FR 41280]; and

2. All insecticides, pesticides, and herbicides, not limited to those listed in ATSDR's announcement as discussed in item 1 above (e.g., parathion, dieldrin/aldrin, heptachlor); and

3. Chlorine, hydrochloric acid, sodium hydroxide, nitric acid, phosphoric acid, acrylic acid, hydrofluoric acid; and:

B. The amount of hazardous substance released, or that might be released, needs (or would need) to be removed, cleaned up, or neutralized according to Federal, state, or local law.

Note: Events meeting Criteria A. and B. include releases and threatened releases of specified chemical; i.e., if it is thought that a tanker will explode containing phosphoric acid and the area is evacuated and no explosion occurs, the event should be included.

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A., below, and ATSDR will be responsible for conducting activities under B., below:

A. Recipient Activities

1. Develop a mechanism that ensures that the state health department is notified of hazardous substance emergency events in a timely fashion. This should include negotiating formal or informal agreements with all state agencies that are normally notified when hazardous substance emergencies have occurred. These agencies may include, but are not limited to state police and fire departments, environmental agencies, and various offices of emergency government. These agreements should specify that the participating state health department is notified immediately or as soon as possible about the occurrence of the hazardous substance emergencies (as

defined in the ATSDR case explanation).

2. Investigate the emergency event by gathering and analyzing the information obtained from all sources. Sources may include, but are not limited to, those agencies mentioned in Number 1. and other relevant Federal, state, local, and private agencies in keeping with the surveillance protocol.

3. Establish and maintain appropriate procedures to ensure the timely gathering, scheduling, entering, and transferring the information to ATSDR as required by the HSEES Protocol.

B. ATSDR Activities

1. Collaborate and assist recipients in acquiring appropriate information for performance of HSEES and evaluating the completeness and quality of relevant information.

2. Provide prototype information gathering instrument.

3. Assist recipients in establishing and maintaining appropriate and timely schedules for the HSEES surveillance process.

4. Assist recipients in selecting training that will be useful in maintaining the surveillance system.

5. Analyze environmental and/or biological results for specific situations in which ATSDR has unique capabilities.

6. Evaluate the overall performance of recipient's adherence to the surveillance protocol.

Evaluation Criteria

A. Applications will be reviewed and evaluated according to the following criteria:

1. Appropriateness and Knowledge of Surveillance System 25%

The extent to which the applicant demonstrates a need for such a surveillance system within their state. Additionally, the applicant should demonstrate an understanding of the needs, limitations, and experience with surveillance systems as a means of assessing the impact of hazardous substances on public health.

2. Proposed Methodology 25%

The extent to which the applicant demonstrates experience in, or an ability to develop, implement, and evaluate surveillance systems in accordance with the HSEES Protocol.

3. Capability and Coordination Efforts 20%

The extent to which the applicant demonstrates the ability to develop, maintain, or expand a formal or an informal working relationship with agencies outside of the state health departments that receive notifications of hazardous substance emergencies. This is necessary to assure that state health departments are notified of all hazardous substance emergencies.

4. Quality of Information Collection 20%

The extent to which the applicant describes experience in collaborative projects where it was responsible for collecting information in a consistent format. Examples include surveillance projects, surveys, and prospective or retrospective hypothesis testing studies. The timely submission of information for analysis is critical in insuring the success of this surveillance. Accordingly, the applicant must demonstrate experience in, or the ability to collect, enter, and transfer information on a timely basis.

5. Program Personnel 10%

The extent to which the proposed program staff are qualifed and appropriate, and the time allocated for them to accomplish program activities is adequate. With limited funds available, the applicant must demonstrate that an infrastructure exists within the health department that will allow for full participation in the surveillance system with partial ATSDR financial support. Such in-kind support can include existing support staff, technical staff (e.g., epidemiologists, data management staff, environmental health scientists, emergency response personnel), and computer hardware.

6. Program Budget (Not Scored)

The extent to which the budget is reasonable, clearly justified, and consistent with intended use of cooperative agreement funds.

B. Review of Noncompeting Continuation Applications Continuation awards within the project period will be made on the basis of the following criteria:

1. Satisfactory progress has been made in meeting project objectives;

2. Objectives for the new budget period are realistic, specific, and measurable;

3. Proposed changes in described long-term objectives, methods of operation, need for cooperative agreement support, and/or evaluation procedures will lead to achievement of project objectives; and

4. The budget request is clearly justified and consistent with the intended use of cooperative agreement funds.

Funding Priorities

Applicants must demonstrate the abilities described earlier in Program Requirements section of this announcement. Priority will be given for the following:

A. Geographic distribution across the entire United States;

B. Representation from both agricultural and industrial states.

Other Requirements

Paperwork Reduction Act

Projects that involve collection of information from 10 or more individuals and funded by cooperative agreements will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OMB clearance has been requested.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372. E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally-recognized Indian tribal governments) should contact their state Single Point of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC of each affected state. A current list of SPOCs including their names, addresses, and telephone numbers is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Atlanta, Georgia 30305, no later than 60 days after the application submission date. The granting agency does not guarantee to "accommodate or explain" for state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.161.

Application Submission Deadline

The original and two copies of the application (Form PHS 5161-1) should be submitted to Henry S. Cassell, III, Grants Management Officer, Grants

Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mail Stop E-14, Atlanta, Georgia 30305, on or before June 5, 1992. (By formal agreement, the CDC Procurement and Grants Office will act on behalf of and for ATSDR on this matter.)

1. Deadline

Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications

Applications that do not meet the criteria in 1. a. or 1. b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management assistance may be obtained from Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., room 300, Mail Stop E-14, Atlanta, Georgia 30305; telephone: (404) 842-6630 or FTS 236-6630.

Programmatic assistance may be obtained from Dr. Wendy Kaye, Chief, Epidemiology and Surveillance Branch, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mail Stop E-31, Atlanta, Georgia 30333; telephone: (404) 639-6203 or FTS 236-6203.

Please refer to Announcement Number 207 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report, Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone (202) 783-3238).

Dated: April 24, 1992.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 92-10171 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-70-M

Centers for Disease Control

Advisory Committee for Injury Prevention and Control; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC), announces the following committee meeting:

Name: Advisory Committee for Injury Prevention and Control (ACIPC).

Times and Dates: 8 a.m.-5 p.m., May 18, 1992.

8 a.m.-12 noon, May 19, 1992.

Place: Dupont Plaza Hotel, 1500 New Hampshire Avenue, NW, Washington, DC 20036.

Status: Open 8 a.m.-2:30 p.m., May 18; closed 2:30 p.m.-5 p.m., May 18; open 8 a.m.-12 noon, May 19.

Purpose: The Committee will continue to make recommendations on policy, strategy, objectives, and priorities including the balance and mix of intramural and extramural research; advise on the development of a national plan for injury prevention and control, the development of new technologies and their application; and review progress toward injury prevention and control.

Matters to be Discussed: The Committee will discuss progress in developing national priorities for injury control, progress made toward establishing a Center for Injury Prevention and Control, the 1993 World Injury Conference, coordination of Federal injury control programs, injury surveillance, and injury research grants. Beginning at 2:30 p.m., through 5 p.m., May 18, the work group will discuss the peer and programmatic review process for research grant applications using pending applications as examples. The applications include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), title 5 U.S.C., and the Determination of the Director, CDC, pursuant to Public Law 92-463.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: John F. Finklea, M.D., Executive Secretary, ACIPC, Division of Injury Control, National Center for Environmental Health and Injury Control, CDC, 1600 Clifton Road, NE, Mailstop F-36, Atlanta, Georgia 30333, telephone 404/488-4690 or FTS 236-4690.

Dated: April 27, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-10170 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 92N-0167]

Purina Mills, Inc.; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Purina Mills, Inc. The NADA provides for the use of Purina Tylan (tylosin tartrate) Soluble Powder in chicken and turkey drinking water. The sponsor requested the withdrawal of approval.

EFFECTIVE DATE: May 11, 1992.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8749.

SUPPLEMENTARY INFORMATION: Purina Mills, Inc., P.O. Box 66812, St. Louis, MO 63166-6812, is the sponsor of NADA 13-035 which provides for the use of Purina Tylan (tylosin tartrate) Soluble Powder in chicken and turkey drinking water. By letter dated December 27, 1991, the sponsor stated that the product is no longer marketed and requested a voluntary withdrawal of approval of the NADA, and waived the opportunity for a hearing.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 Withdrawal of approval of applications (21 CFR 514.115), notice is given that approval of NADA 13-035 and all supplements and amendments thereto is hereby withdrawn, effective May 11, 1992.

Dated: April 24, 1992.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92-10189 Filed 4-30-92; 8:45 a.m.]

BILLING CODE 4160-01-F

[Docket No. 84S-0182]

Revised Recommended Methods for Evaluating Potency, Specificity, and Reactivity of Anti-Human Globulin; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised draft recommended methods document on evaluating potency and specificity of anti-human globulin (AHG). This draft document revises a recommended methods document on this subject whose availability was first announced in a final rule in the Federal Register of February 11, 1985. A recommended methods document provides guidance on product testing not specifically described in the Code of Federal Regulations. The draft document discusses aspects of product testing that the Center for Biologics Evaluation and Research (CBER) considers important at this time, including recommendations intended to facilitate product development and use, and intended to foster communication between CBER and other persons.

DATES: Comments by June 30, 1992.

ADDRESSES: Submit written requests for single copies of the revised draft recommended methods document to the Congressional, Consumer, and International Affairs Branch (HFB-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, except that written requests delivered by carriers other than the U.S. Postal Service should be submitted to the Congressional, Consumer, and International Affairs Branch (HFB-142), Food and Drug Administration, suite 109, Metro Park North 3, 7564 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the revised draft recommended methods document to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The revised draft recommended methods document and comments received are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For Information on the Draft Recommended Methods: Sheryl A. Kochman, Center for Biologics Evaluation and Research (HFB-940), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-496-0952.

For Information on this Notice: Andrea Chamblee, Regulatory Counsel, Center for Biologics Evaluation and Research (HFB-130), Food and Drug Administration, 8800 Rockville Pike, 301-295-8188.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a revised draft recommended methods document on evaluating potency and specificity of AHG, to facilitate use and development of AHG and to foster communications between CBER and other persons.

In a final rule published in the Federal Register of February 11, 1985 (50 FR 5574), FDA revised the standards for AHG. In the same document, FDA announced the availability of a revised document entitled "Recommended Methods for Anti-Human Globulin Evaluation," which superseded previously existing guidelines for Anti-Human Serum that FDA made available on August 19, 1977 (42 FR 41920). The agency chose to make the draft recommended methods available to permit timely future changes and improvements in the recommended methods consistent with advances in science regarding the products. As with these previous announcements, FDA now is announcing the availability of this revised draft recommended methods document. When standards or procedures which differ from those described in a recommended methods document are chosen, it is recommended that the matter be discussed with FDA in advance. This recommended methods document does not bind the agency, and it does not create or confer any rights, privileges, or benefits for or on any person.

In followup to the "Reagents for the 1990's" workshop held November 7 through 9, 1990, FDA received comments from licensed manufacturers of blood grouping reagents, users, and other interested persons. The comments were reviewed and considered, and those that were accepted have been incorporated into this document. A summary of the changes made in response to comments is included in the revised recommended methods document.

The draft document is dated March 1992 and discusses recommendations regarding proposed performance criteria including reference preparations and general considerations (red blood cells, serologic controls, reagent dilutions, centrifugation and reaction grading). It discusses potency test methods and procedures for determination of specified antibodies; and methods for evaluating specificity. The document also includes a list of references for additional information.

In common with other recommended methods circulated by CBER, this document is not intended to be all inclusive. Certain items may not be applicable in all situations.

Interested persons may submit written comments on the draft recommended methods document to the Dockets Management Branch (address above). FDA will consider such comments in determining whether further revisions to this draft recommended methods document are warranted.

Dated: April 24, 1992.

Michael R. Taylor

Deputy Commissioner for Policy.

[FR Doc. 92-10139 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 84S-0181]

Revised Recommended Methods for Blood Grouping Reagents Evaluation; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised draft document entitled "Recommended Methods for the Evaluation of Blood Grouping Reagents." This document is a revision of a recommended methods document on this subject whose availability was first announced, in a proposed rule, in the Federal Register of March 5, 1985. A recommended methods document provides guidance on product testing not specifically described in the Code of Federal Regulations (CFR). The draft document discusses aspects of product testing that the Center for Biologics Evaluation and Research (CBER) considers important at this time, including recommendations intended to facilitate product development and use, and intended to foster communication between CBER and other persons.

DATES: Comments by June 30, 1992.

ADDRESSES: Submit written requests for single copies of the revised draft recommended methods document to the Congressional, Consumer, and International Affairs Branch (HFB-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857,

except that written requests delivered by carriers other than the U.S. Postal Service should be submitted to the Congressional, Consumer, and International Affairs Branch (HFB-142), Food and Drug Administration, suite 109, Metro Park North 3, 7564 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the revised draft recommended methods document to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The revised draft recommended methods document and comments received are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For Information on the Draft Recommended Methods Document: Sheryl A. Kochman, Center for Biologics Evaluation and Research (HFB-940), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-496-0952.

For Information on this Notice: Andrea Chamblee, Regulatory Counsel, Center for Biologics Evaluation and Research (HFB-130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8188.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a revised draft recommended methods document on the evaluation of blood grouping reagents (BGR's) to facilitate use and development of BGR's and to foster communications between CBER and other persons.

In a final rule published in the **Federal Register** of April 19, 1988 (53 FR 12760) FDA revised the standards for BGR's. In the same document, FDA announced the availability of a revised document entitled "Recommended Methods for Blood Grouping Reagents Evaluation," which superseded previously existing recommended methods for Blood Grouping Serum that FDA made available in 1985 (50 FR 8743 at 8745, March 5, 1985). The agency chose to make the draft recommended methods available to permit timely future changes and improvements in the recommended methods consistent with advances in science regarding the products. As with these previous announcements, FDA now is announcing the availability of this revised draft recommended methods document. When standards or procedures which differ from those described in a recommended methods document are chosen, it is recommended that the matter be discussed with FDA in advance. This draft recommended methods document does not bind the agency, and it does not create or confer any rights, privileges, or benefits for or on any person.

In followup to the "Reagents for the 1990's" workshop, held November 7 through 9, 1990, FDA received comments from licensedmanufacturers of BGR's, users, and other interested persons. The comments were reviewed and considered, and those that were accepted have been incorporated into this document. A summary of the changes made in response to comments is included in the revised recommended methods document.

The draft document is dated March 1992 and discusses recommendations regarding proposed performance criteria for ABO BGR's, slide and modified tube Rh and low protein Rh BGR's, and rare BGR's. The document discusses reference preparations, testing for potency, specificity, and avidity for these BGR's. The document also discusses spontaneous agglutination and prozone, as appropriate.

In common with other recommended methods circulated by CBER, this document is not intended to be all inclusive. Certain items may not be applicable in all situations.

Interested persons may submit written comments on the revised draft recommended methods document to the Dockets Management Branch (address above). FDA will consider such comments in determining whether further revisions to this draft recommended methods document are warranted.

Dated: April 24, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-10140 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 91N-0467]

Draft of "Points to Consider in the Design and Implementation of Field Trials for Blood Grouping Reagents and Anti-Human Globulin;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft points to consider (PTC) document entitled "Points to Consider in the Design and Implementation of Field Trials for Blood Grouping Reagents and Anti-Human Globulin." Blood Grouping Reagents and Anti-Human Globulin are subject to FDA licensure and regulation as diagnostic substances for laboratory tests (hereinafter referred to as "products"). The draft PTC document is intended to assist manufacturers of these products in conducting field trials, the results of which must be submitted to FDA in support of product license applications (PLA's) or amendments.

DATES: Submit written comments on the draft PTC document by June 30, 1992.

ADDRESSES: Submit written requests for single copies of the draft PTC document to the Congressional, Consumer, and International Affairs Branch (HFB-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, except that written requests delivered by carriers other than the U.S. Postal Service should be submitted to the Congressional, Consumer, and International Affairs Branch (HFB-142), Food and Drug Administration, suite 109, Metro Park North 3, 7564 Standish Pl., Rockville, MD 20855. Send two self-addressed, adhesive labels to assist that office in processing requests. Submit written comments on the draft PTC document to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The draft PTC document and comments received are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ann Reed Gaines, Center for Biologics Evaluation and Research (HFB-132), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8188.

SUPPLEMENTARY INFORMATION: Field trials are a research method appropriate for evaluating products such as Blood Grouping Reagents and Anti-Human Globulin. Field trials are used to show that the directions for product usage are adequate, that both positive and

negative blood samples give expected results, and that the performance characteristics of the product do not significantly differ between routine and expert users. The results of field trials for these products must be submitted by manufacturers as part of the PLA's or amendments thereto.

In response to concerns of manufacturers of these products about field trials, FDA included sessions on the purpose, design, and implementation of field trials in the FDA workshop "Reagents for the 1990's," held November 7 through 9, 1990. Following the workshop, FDA concluded that a summary of the sessions should be made available to manufacturers. Thus, FDA is announcing the availability of that summary, in the form of a draft PTC document entitled "Points to Consider in the Design and Implementation of Field Trials for Blood Grouping Reagents and Anti-Human Globulin." The draft PTC document was prepared by the Laboratory of Blood Bank Practices, Division of Transfusion Science, Center for Biologics Evaluation and Research and is dated 1st draft 1992.

The draft PTC document provides information about, but does not set forth requirements for, field trials. Topics addressed in the draft PTC document include criteria for the following parameters: blood samples to be tested, testing sites to be used, number of tests to be performed, testing methods to be used, and records to be maintained. The draft PTC document does not, however, address requirements for submission or approval of PLA's, specified in 21 CFR 601.1 through 601.51. Neither does the draft PTC document address conformance to the relevant regulations for diagnostic substances for laboratory tests, specified in 21 CFR 660.20 through 660.28 and 21 CFR 660.50 through 660.55. As with other PTC documents, FDA does not intend this draft PTC document to be comprehensive and cautions that not all information is applicable to all situations.

Interested persons may submit written comments on the draft PTC document to the Dockets Management Branch (address above). Such comments will be considered in determining whether further revision of the draft PTC document is warranted.

Dated: April 24, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-10138 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 91N-0466]

Draft of "Points to Consider in the Manufacture of In Vitro Monoclonal Antibody Products for Further Manufacturing into Blood Grouping Reagent and Anti-Human Globulin;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft points to consider (PTC) document entitled "Points to Consider in the Manufacture of In Vitro Monoclonal Antibody products for Further Manufacturing into Blood Grouping Reagent And Anti-Human Globulin." Blood Grouping Reagent and Anti-Human Globulin are subject to FDA licensure and regulation as diagnostic substances for laboratory tests (hereinafter referred to as "products"). The draft PTC document discusses topics that manufacturers of these products should consider in preparing product license applications (PLA's) or amendments and in conforming to the current good manufacturing practices (CGMP's).

DATES: Submit written comments on the draft PTC document by June 30, 1992.

ADDRESSES: Submit written requests for single copies of the draft PTC document to the Congressional, Consumer, and International Affairs Branch (HFB-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, except that written requests delivered by carriers other than the U.S. Postal Service should be submitted to the Congressional, consumer, and International Affairs Branch (HFB-142), Food and Drug Administration, suite 109, Metro Park North 3, 7564 Standish Pl., Rockville, MD 20855. Send two self-addressed, adhesive labels to assist that office in processing requests. Submit written comments on the draft PTC document to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The draft PTC document and comments received are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ann Reed Gaines, Center for Biologics Evaluation and Research (HFB-132), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8188.

SUPPLEMENTARY INFORMATION: In response to the interests of manufacturers of Blood Grouping Reagent and Anti-Human Globulin, FDA included a session on the manufacture of these products in the FDA workshop "Reagents for the 1990's," held November 7 through 9, 1990. FDA concluded that a summary of that session should be made available to manufacturers of these products. Thus, FDA is announcing the availability of that summary, in the form of a draft PTC document entitled "Points to Consider in the Manufacture of In Vitro Monoclonal Antibody Products for Further Manufacturing into Blood Grouping Reagent and Anti-Human Globulin." The draft PTC document was prepared by the Laboratory of Blood Bank Practices, Division of Transfusion Science, Center for Biologics Evaluation and Research (CBER) and is dated March 1992.

Manufacturers of Blood Grouping Reagent and Anti-Human Globulin for whom this draft PTC document was intended include those: (1) Submitting PLA's or amendments; (2) licensed for shared manufacture; and (3) licensed for sole manufacture. The draft PTC document discusses topics that should be considered by manufacturers of these products in preparing PLA's or amendments and in conforming to the CGMP's. Topics addressed in the draft PTC document include: (1) Characterization of cell lines; (2) antibody production procedures; (3) serological, immunological, biochemical, and biophysical characterization of the product; and (4) stability, potency, and specificity of the product.

The draft PTC document provides information about, but does not set forth requirements for, the manufacture of Blood Grouping Reagent and Anti-Human Globulin. The draft PTC document does not address the submission or approval of PLA's, specified in 21 CFR 601.1 through 601.51. Neither does the draft PTC document address conformance to the relevant biologic product regulations, specified in 21 CFR Parts 600 through 610; additional standards for diagnostic substances for laboratory tests, specified in 21 CFR part 660; or medical device regulations, specified in 21 CFR parts 800 through 803, 807 through 812, and 814 through 820. As with other PTC documents, FDA does not intend this draft PTC document to be comprehensive and further cautions that not all information is applicable to all situations.

The draft PTC document is different from, although similar in format and topics to, the PTC document entitled "Points to Consider in the Manufacture of In Vitro Monoclonal Antibody Products Subject to Licensure," which is dated June 1983, and was prepared by the Office of Biologics, National Center for Drugs and Biologics (now CBER), FDA. This latter PTC document remains both available and relevant to diagnostic substances for laboratory tests, other than Blood Grouping Reagent and Anti-Human Globulin.

Interested persons may submit written comments on the draft PTC document to the Dockets Management Branch (address above). Such comments received will be considered in determining whether further revision of the draft PTC document is warranted.

Dated: April 24, 1992.

Michael R. Taylor,

Deputy Commissioner of Policy.

[FR Doc. 92-10135 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 92N-0192]

Environmental Assessments and Findings of No Significant Impact

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has received environmental assessments (EA's) and issued findings of no significant impact (FONSI's) relating to the approval of new drug applications (NDA's) for the following products: Ceredase (glucocerebrosidase); Ergamisol (levamisole hydrochloride) Tablets; Exosurf (colfosceril palmitate) Pediatric Sterile Powder; Foscavir (foscarnet sodium) Injection; Nipent (pentostatin); Survanta (beractant); TechneScan MAG3, a kit containing betiatide for the preparation of technetium Tc 99m mertiatide; Videx (didanosine) Chewable Tablets; Buffered Powder for Oral Solution; and Pediatric Powder for Oral Solution. FDA is publishing this notice under section 102 of the National Environmental Policy Act (42 U.S.C. 4332), 21 CFR 25.41(b), and 40 CFR 1506.6.

ADDRESSES: The EA's and FONSI's may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Center for Drug Evaluation and Research (HFD-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8049.

SUPPLEMENTARY INFORMATION: The National Environmental Policy Act (NEPA) requires all Federal agencies to "use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans." (See 42 U.S.C. 4331(a).) Under NEPA, all Federal agencies must prepare detailed statements assessing the possible environmental impact of, and alternatives to, major Federal actions significantly affecting the environment, and such statements are to be made available to the public. (See 42 U.S.C. 4332, 40 CFR 1506.6, and 21 CFR 25.41(b).)

FDA implements NEPA through its regulations at 21 CFR Part 25. Under those regulations, the approval of an NDA usually constitutes an action that ordinarily requires the preparation of an EA. (See 21 CFR 25.22(a)(14).)

FDA recently approved NDA's pertaining to the following products: Ceredase (glucocerebrosidase), NDA 20-057; Ergamisol (levamisole hydrochloride) Tablets, NDA 20-035; Exosurf (colfosceril palmitate) Pediatric Sterile Powder, NDA 20-044; Foscavir (foscarnet sodium) Injection, NDA 20-068; Nipent (pentostatin), NDA 20-122; Survanta (beractant), NDA 20-032; TechneScan MAG3, a kit containing betiatide for the preparation of technetium Tc 99m mertiatide, NDA 19-882; Videx (didanosine) Chewable Tablets, NDA 20-154; Buffered Powder for Oral Solution, NDA 20-155; and Pediatric Powder for Oral Solution, NDA 20-156.

The agency has reviewed the EA's submitted for each NDA and prepared a FONSI for each. No environmental impact statements, therefore, are necessary. This notice announces that the EA's and FONSI's for these human drug products may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 23, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-10188 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92E-0115]

Determination of Regulatory Review Period for Purposes of Patent Extension; Acel-Imune®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Acel-Imune® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was

issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product, Acel-Imune®. Acel-Imune® (Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed (DTP)) is indicated as a fourth and/or fifth dose for children from 17 months of age up to age 7 years (prior to 7th birthday) who have previously been immunized against diphtheria, tetanus, and pertussis with three or four doses of whole-cell DTP vaccine. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Acel-Imune® (U.S. Patent No. 4,455,297) from the Takeda Chemical Industries, Ltd., and the Patent and Trademark Office requested FDA's assistance in determining the patent's eligibility for patent term restoration. FDA, in a letter dated April 6, 1992, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Acel-Imune® represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Acel-Imune® is 2,002 days. Of this time, 400 days occurred during the testing phase of the regulatory review period, while 1,602 days occurred during the approval phase. These periods of time were derived from the following dates:

1. The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective: June 24, 1986. FDA has verified the applicant's claim that the date the investigational new drug application became effective was June 24, 1986.

2. The date the application was initially submitted with respect to the human drug product under section 351 of the Public Health Service Act: September 1, 1987. FDA has verified the applicant's claim that the product license application (PLA) for Acel-Imune® (PLA 87-0406) became effective on September 1, 1987.

3. The date the application was approved: December 17, 1991. FDA has verified the applicant's claim that PLA 87-0406 was approved on December 17, 1991.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,643 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 30, 1992, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 28, 1992, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 24, 1992.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 92-10141 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92E-0131]

Determination of Regulatory Review Period for Purposes of Patent Extension; Maxaquin®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Maxaquin® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard Klein, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Maxaquin®. Maxaquin® (lomefloxacin hydrochloride) is indicated for urinary tract infections and lower respiratory tract infections. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Maxaquin® (U.S. Patent No. 4,528,287) from Hokuriku Pharmaceutical Co., Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated March 25, 1992, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Maxaquin® represented the first commercial marketing of the product. Shortly

thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Maxaquin® is 1,486 days. Of this time, 916 days occurred during the testing phase of the regulatory review period, while 570 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* January 27, 1988. FDA has verified the applicant's claim that the date the investigational new drug application (IND) became effective was January 27, 1988.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* July 31, 1990. FDA has verified the applicant's claim that the date the new drug application (NDA) for Maxaquin® (NDA 20-013) became effective was July 31, 1990.

3. *The date the application was approved:* February 21, 1992. FDA has verified the applicant's claim that NDA 20-013 was approved on February 21, 1992.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,028 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 30, 1992, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 28, 1992, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 24, 1992.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 92-10142 Filed 4-30-92; 8:45 a.m.]

BILLING CODE 4160-01-F

[Docket No. 92E-0081]

Determination of Regulatory Review Period for Purposes of Patent Extension; Lorabid®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Lorabid® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joel P. Sparks, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Lorabid®. Lorabid® (loracarbef) is indicated for patients with mild to moderate infections caused by susceptible strains of designated microorganisms in the lower and upper respiratory tracts, skin and skin structure, or the urinary tract. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Lorabid® (U.S. Patent No. 4,708,956) from Kyowo Hakko Kyogo Co., Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated March 23, 1992, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Lorabid® represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Lorabid® is 1,697 days. Of this time, 1,206 days occurred during the testing phase of the regulatory review period, while 491 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 501(i) of the Federal Food, Drug, and Cosmetic Act became effective:* May 9, 1987. FDA has verified the applicant's claim that the date the investigational new drug application became effective was May 9, 1987.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* August 27, 1990. FDA has verified the applicant's claim that the new drug application (NDA) for Lorabid® (NDA 50-667) became effective on August 27, 1990.

3. *The date the application was approved:* December 31, 1991. FDA has verified the applicant's claim that NDA

50-667 was approved on December 31, 1991.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 402 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 30, 1992, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 28, 1992, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 24, 1992.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 92-10190 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-01-F

Health Resources and Services Administration

Availability of Funds for the National Health Service Corps Loan Repayment Program and Grants for State Loan Repayment Programs

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces the approximately $34.5 million will be available in fiscal year (FY) 1992 for: (1) Awards for educational loan repayment under the National Health Service Corps (NHSC) Loan Repayment Program (LRP) (section 338B of the Public Health Service (PHS) Act), and (2) grants to States to operate loan repayment programs (section 338I of the PHS Act).

The HRSA, through this notice, invites health professionals to apply for participation in the NHSC LRP and invites States to apply for grants to operate State Loan Repayment Programs (LRPs). The HRSA estimates the approximately 310 NHSC Loan Repayment awards totaling $30 million may be made to primary care physicians, dentists, nurse midwives, nurse practitioners, and physicians assistants. Approximately $4.5 million in discretionary grants to States to operate loan repayment programs will be awarded. There will be approximately 25 grants ranging from $75,000 to $250,000. Awards will be made for a one year budget period and for up to a three year project period.

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting health priorities. These programs will contribute to the Healthy People 2000 objectives by improving access to primary health care services through coordinated systems of care for medically underserved populations in both rural and urban areas. Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-01) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (telephone 202-783-3238).

Part A of this notice contains specific information concerning the NHSC LRP, and part B contains specific information concerning grants for State LRPs.

Part A—NHSC Loan Repayment Program

DATE: To receive consideration for funding, health professionals must submit their applications by July 1, 1992. To assure early processing of the application and approval for site matching, individuals are encouraged to submit applications well ahead of the July 1 deadline.

Applications will be considered to have met the deadline if they are:

1. Received on or before the deadline date; or

2. Postmarked before the deadline date and received in time for orderly processing. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing. Applications received after announced closing date will not be considered for funding.

ADDRESS: Application materials may be obtained by calling or writing, and completed applications should be returned to, Loan Repayment Programs Branch, c/o Norris S. Lewis, M.D., Director, Division of Health Services Scholarship, Bureau of Health Care Delivery and Assistance, HRSA room 6A20, 12300 Twinbrook Parkway, Rockville, Maryland 20852, (301-443-0743). The new 24-hour toll-free phone number is 1-800-435-6464. The application has been approved under Office of Management and Budget (OMB) Number 0915-0127.

FOR FURTHER INFORMATION CONTACT: For further program information and technical assistance, please contact Mr. Clarke Gordon, Chief, Loan Repayment Programs Branch, at the above address and phone number.

SUPPLEMENTARY INFORMATION: Section 338B of the Public Health Service Act (42 U.S.C. 2541-1) authorizes the Secretary to establish the NHSC LRP, to help in assuring, with respect to the provision of primary health services, an adequate supply of trained primary care health professionals for the NHSC. The NHSC is used by the Secretary to provide primary health services in designated health professional shortage areas (HPSAs). Primary health services and services regarding family medicine, internal medicine, pediatrics, obstetrics and gynecology, dentistry, or mental health, that are provided by physicians or other health professionals.

Under the NHSC LRP, the Secretary will repay graduate and undergraduate educational loans incurred by health professionals. For the first two years of service at an approved site in a designated HPSA, the Secretary will repay up to $25,000 per year of the educational loans of such individual. For subsequent years of service the Secretary will repay up to $35.000 per year. The Secretary will provide tax liability payments in an amount equal to 39 percent of the total loan repayments made during that tax year to reimburse the Program participants for increased tax liability resulting from loan repayments received under this Program. The increase in the amount of the tax liability payment made will apply only to contracts entered into after November 16, 1990. In addition to these amounts, NHSC LRP participants will receive a salary from a private nonprofit or public entity or, in some cases, the Federal Government during the term of their service.

The Secretary will identify and make available annually a list of those HPSA sites which will be available for service repayment under the NHSC LRP. The Secretary will select applicants for consideration for participation in the NHSC LRP according to the following selection criteria:

(1) The extent to which an individual's training in a health profession or specialty is determined by the Secretary to be needed by the NHSC in providing primary health services. From time to time, the Secretary will publish a notice detailing the professions and specialties most needed by the NHSC. Current professional and specialty priorities are outlined at the end of part A of this notice.

(2) The extent to which an individual is determined by the Secretary to be committed to serve in a HPSA.

(3) The extent of an individual's demonstrated interest in providing primary health services.

(4) The immediacy of an individual's availability for service. Individuals who have a degree, have completed all necessary postgraduate training in their professions and specialties (i.e., in the case of physicians, are certified or eligible to sit for the certifying examinations of a specialty board), have a current and unrestricted valid license to practice their profession in a State, and are immediately available to serve, will receive highest consideration.

(5) The academic standing, prior professional experience in a HPSA, board certification, residency achievements, peer recommendations, and other criteria related to professional competence or conduct will also be considered.

Among applicants, priority will be given to those applicants:

- Whose health profession or specialty is most needed by the NHSC;
- Who have and whose spouses, if any, have characteristics that increase the probability of their continuing to serve in a HPSA upon completion of their service obligations;
- Subject to the preceding paragraph, who are from disadvantaged backgrounds.

Eligible Applicants

To be eligible to participate in the NHSC LRP, an individual must:

(a)(1) Have a degree in allopathic or osteopathic medicine, dentistry, or other health profession, or be certified as a nurse midwife, nurse practitioner, or physician assistant;

(2) Be enrolled in an approved graduate training program in allopathic or osteopathic medicine, dentistry, or other health profession; or

(3) Be enrolled as a full-time student at an accredited school in a State and in the final year of a course of study or program leading to a degree in allopathic or osteopathic medicine, dentistry, or other health profession;

(b) Be eligible for appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service (PHS) or be eligible for selection for civilian service in the NHSC;

(c) Submit an application for a contract to participate in the NHSC LRP which contract describes the repayment of educational loans in return for the individual serving for an obligated period.

Any individual who previously incurred an obligation for health professional service to the Federal Government, a State Government, or other entity is ineligible to participate in the NHSC LRP unless such obligation will be completely satisfied prior to the beginning of service under this Program. Any individual who has breached an obligation for health professional service to the Federal Government, a State Government or other entity is ineligible to participate in the NHSC LRP. No loan repayments will be made for any professional practice performed prior to the effective date of the NHSC LRP contract. All individuals must have a current and valid license to practice their profession in a State prior to beginning service under this Program.

Professions and Specialties Needed by the NHSC

At this time, the Secretary has determined that priority will be given to physicians who are certified or eligible to sit for the certifying examination in the specialty boards of family practice, osteopathic general practice, obstetrics/gynecology, internal medicine, and pediatrics. In addition, priority will be given to nurse midwives, physician assistants, and nurse practitioners who are certified or eligible to sit for the certifying examination in their profession.

Other Award Information

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, since Executive Order 12372 does not cover payments to individuals. The OMB Catalog of Federal Domestic Assistance number for this program is 93.162.

Part B—Grants for State Loan Repayment Programs

ADDRESSES: Application materials for State Loan Repayment Programs may be obtained by calling or writing, and completed applications should be returned to: Mrs. Harriet Green, Grants Management Branch, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, 12100 Parklawn Drive, Rockville, Maryland 20857, (301) 443–5887. The Grants Managements staff are available to provide assistance on business management issues.

Application for these grants will be made on Form PHS–5161–1 with revised face sheet DHHS Form 424, as approved by the OMB under control number 0937–0189. Specific instructions for completing the application form for this program will be sent to any State requesting an application package.

DATES: Applications are due June 1, 1992. Applications shall be considered to have met the deadline if they are: (1) Received on or before the deadline date; or (2) postmarked before the deadline date and received in time for orderly processing. Untimely applications will be returned to the applicant. Applicants should obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service or request a legibly dated U.S. Postal Service postmark. Private metered postmarks shall not be accepted as proof of timely mailing.

FOR FURTHER INFORMATION CONTACT: For general program information and technical assistance, please contact Cheryl LaPointe, M.P.H., National Health Service Corps, Bureau of Health Care Delivery and Assistance, HRSA, 5600 Fishers Lane, room 7A–39, Rockville, MD 20857, (301) 443–1470.

SUPPLEMENTARY INFORMATION: Section 338I of the PHS Act (42 U.S.C. 254q–1) authorizes the Secretary, acting through the Administrator of the HRSA, to make grants to States for the purpose of assisting the States in operating programs as described in this notice for the repayment of educational loans of health professionals in return for their practice in HPSAs to increase the availability of primary health services in HPSAs.

State Loan Repayment Programs (LRPs) eligible for funding under this announcement must meet the following requirements:

(1) Be administered directly by a State agency;

(2) Pay all or part of the qualifying educational loans (including principal, interest and related educational loan expenses) of health professionals agreeing to provide primary health services in HPSAs. "Qualifying loans" are government and commercial loans for actual costs paid for tuition, reasonable educational expenses, and

reasonable living expenses relating to the graduate or undergraduate education of a health professional;

(3) Make assignment of participating health professionals only to public and nonprofit private entities located in and providing primary health services in HPSAs; and

(4) Have participant contracts which provide remedies for any breach of contract by participating health professionals.

Contracts provided by a State are not to be on terms that are more favorable to health professionals than the most favorable terms the Secretary is authorized to provide for contracts under the Federal NHSC Loan Repayment Programs under section 338B of the PHS Act, including terms regarding:

(a) The annual amount of payments provided on behalf of the professionals regarding educational loans; and

(b) The availability of remedies for any breach of the contracts by the health professionals involved.

States are required to develop contracts that reflect a minimum of two years of obligated service. The annual amount of payments under a contract will not exceed the maximum amount of $35,000 authorized in section 338B(g)(2)(A) of the PHS Act unless (1) this excess amount is paid solely from non-Federal contributions, and (2) the contract provides that the health professional involved will satisfy the requirements of obligated service under the contract solely through the provision of primary health services in a HPSA authorized to receive the assignment of an NHSC Scholarship Program recipient.

No loan repayments will be made for any professional practice performed prior to the effective date of the health professional's State Loan Repayment Program contract, and no credit will be given for any practice done while the provider is in a professional school or graduate training program.

Applications must identify the State entity and key personnel who will administer the grant and describe the qualifications and experience of that entity and its personnel concerning the State's primary health services' delivery system and health professional needs.

States seeking support under this notice for the cost of State LRPs must provide adequate assurances that:

(1) The State will make available (driectly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant. In determining the amount of non-Federal contributions in cash that a State has to provide, other Federal funds may not be used.

(2) The State will assign health professionals participating in the program only to public and nonprofit private entities located in and providing health services in HPSAs.

(3) The grant funds will not be expended to conduct activities for which Federal funds are awarded for State Primary Care Cooperative Agreements, State Primary Care Associations, and State Offices of Rural Health.

(4) Grant funds will be expended only for loan repayments to health professionals who have entered into contracts with States.

FUTURE SUPPORT: The Secretary must determine that the State has complied with each of the agreements of the grant in order for funding to continue. Before making a grant for a subsequent year of State LRP support, the Secretary will, in the case of a State with one or more initial breaches by health professionals of the repayment contracts, reduce the amount of a grant to the State for the fiscal year involved by an amount equal to the sum of the expenditures of Federal funds made regarding the State LRP contracts involved including interest on the amount of such expenditures, determined on the basis of the maximum legal rate prevailing for loans made during the time amounts were paid under the contract, as determined by the Treasurer of the United States. The Secretary may waive the reduction in the subsequent grant award if the Secretary determines that a health professional's breach was attributable solely to the professional having a serious illness.

EVALUATION CRITERIA: The following criteria will be used to evaluate State applications to determine which States are to be supported under this notice:

(a) The extent of need of the State for the health professionals consistent with the health professions and specialties identified in this notice;

(b) The number and type of providers a State proposes to support through this program;

(c) The appropriateness of the proposed placements of State LRP recipients (e.g. consistency and coordination with State-based plans to improve access to primary health services);

(d) The adequacy of the qualifications and the administrative and managerial ability of State staff to administer and carry out the proposed project;

(e) The suitability of the State's approach and the degree to which the plan of a State is coordinated with Federal, State, and other programs for meeting the state's health professional needs and resources, including mechanisms for evaluaton of the programs activities;

(f) The source and plans for the use of the State match (including the degree to which the State's matching funds are used for loan repayment rather than the administrative costs and the degree to which the State match exceeds the minimum requirements or has increased overtime and the amount of the match relative to the needs and resources of the State);

(g) The extent to which special consideration will be extended to medically underserved areas with large minority populations;

(h) The degree to which State LRPs previously supported by the HRSA have been successful in meeting the health professional needs stated in their plans.

No funding preferences will be applied.

Professions and Specialties Needed

To be supported under this program, the State Program must establish State priorities for the selection of health professionals, consistent with the NHSC LRP. At this time, the Secretary has determined that under the NHSC LRP priority will be given to physicians who are certified or eligible to sit for the certifying examination in the specialty boards of family practice, osteopathic general practice, obstetrics/gynecology, internal medicine, and pediatrics. In addition, priority will be given to nurse midwives, nurse practitioners, and physician assistants who are certified or eligible to sit for the certifying examination in their profession.

Other Award Information

This program is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal program as implemented by 45 CFR part 100. Executive Order 12372 allows States and territories the option of setting up a system for reviewing applications from within their States for assistance under certain federal programs.

The application packages will contain a listing of States which have chosen to set up a review system and will provide a single point of contact (SPOC) in the States for that review.

Applicants should contact their state SPOC as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. The due date for State process recommendations is 60 days after the application deadline for new and competing awards. The BHCDA

does not guarantee that it will accommodate or explain its responses to recommendations received after that date.

The OMB Catalog of Federal Domestic Assistance number for this program is 93.1165.

Dated: March 25, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92-10134 Filed 4-30-92; 8:45 am]

BILLING CODE 4160-15-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on April 3, 1992.

(Call Reports Clearance Officer on (410) 965-4142 for copies of package.)

1. Report of Work Activity-Continuing Disability—0960-0108—The information on form SSA-3945 is used by the Social Security Administration to determine whether work of an individual after entitlement to disability benefits is cause for that entitlement to end. The respondents are disability recipients for whom earnings are reported after their entitlement.

Number of Respondents: 140,000
Frequency of Response: 1
Average Burden Per Response: 40 minutes
Estimated Annual Burden: 93,333 hours

2. Employee Identification Statement—0960-0473—The information on form SSA-4156 is used by the Social Security Administration to resolve scrambled earnings situations. The respondents are employers who have reported earnings incorrectly.

Number of Respondents: 4,750
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 792 hours

3. Child Care Dropout Questionnaire—0960-0474—The information on form SSA-4162 is used by the Social Security Administration to determine whether the zero earnings years can be dropped out when computing a claimant's benefit. Respondents consist of applicants for disability insurance benefits who may qualify for a higher primary insurance amount because of having a child in care for certain years.

Number of Respondents: 2,000
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 167 hours

4. Supplemental Statement Regarding Farming Activities of Person Living Outside the U.S.A.—0960-0103—The information on form SSA-7163A is used by the Social Security Administration to make a determination regarding work deductions. The respondents are beneficiaries or claimants who work at farming and live outside the United States.

Number of Respondents: 1,000
Frequency of Response: 1
Average Burden Per Response: 1 hour
Estimated Annual Burden: 1,000 hours
OMB Desk Officer: Laura Oliven

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: April 27, 1992.

Charlotte Whitenight,

Acting Reports Clearance Officer, Social Security Administration.

[FR Doc. 92-10143 Filed 4-30-92; 8:45 am]

BILLING CODE 4190-29-M

[Social Security Ruling SSR 92-5c]

Administrative Proceedings on Remand Considered Part of Civil Action for Which Attorney Fees May Be Awarded Under the Equal Access to Justice Act

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Social Security ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 92-5c. This Ruling, which is based on the Supreme Court decision in *Sullivan* v. *Hudson*, concerns whether the claimant is entitled to attorney fees awarded under the Equal Access to Justice Act for representation provided during administrative proceedings held pursuant to a district court order remanding the case to the Secretary.

EFFECTIVE DATE: May 1, 1992.

FOR FURTHER INFORMATION CONTACT:

Joanne K. Castello, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivor's Insurance; 93.806 Special Benefits for Disabled Coal Miners; 93.807 Supplemental Security Income)

Dated: April 15, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Sections 205(g) and 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) and 1383(c)(3)) (28 U.S.C. 2412(d))

Sullivan v. *Hudson*, 490 U.S. 877 (1989)

This Ruling concerns whether the claimant is entitled to attorney fees under the Equal Access to Justice Act (EAJA) for representation provided during administrative proceedings held pursuant to a district court order remanding the case to the Secretary.

On September 9, 1981, the claimant filed applications for disability insurance benefits and supplemental security income (SSI) payments. The Social Security Administration (SSA)

denied her claims, and upheld this determination on reconsideration. The claimant then requested and received a hearing before an administrative law judge. (ALJ). After reviewing the medical evidence received as a result of posthearing psychiatric and psychological examinations, the ALJ decided that the claimant was not disabled because she was capable of performing work similar to that she had done in the past. After the Appeals Council denied review of the ALJ's decision, the claimant appealed to the Federal district court, which affirmed the Secretary's denial. On claimant's appeal to the Court of Appeals for the Eleventh Circuit, the court reversed the Secretary's decision on the grounds that the Secretary did not follow the regulations, which required the Secretary to consider the cumulative effect of the claimant's impairments, and instructed the district court to remand the case to the Secretary for further proceedings.

The claimant was represented in the remand proceedings before the ALJ by the same counsel who had represented the claimant before the district and circuit courts. In a recommended decision, the ALJ found the claimant disabled. The Appeals Council adopted the ALJ's recommended decision as the final decision of the Secretary. The district court granted the Secretary's motion to dismiss the judicial review action but retained jurisdiction over the action for the sole purpose of considering any petition for attorney's fees. The claimant then filed such a petition under the EAJA, 28 U.S.C. 2412(d). The district court denied the petition, finding that the Secretary's position in the initial denial of benefits was "substantially justified" within the meaning of the EAJA. On the claimant's appeal, the Court of Appeals reversed, finding that the denial of benefits was not "substantially justified." The court also held that the award could include attorney's fees for work done at the administrative level after the case was remanded to the Secretary. The Court of Appeals rejected the Secretary's argument that provisions of 5 U.S.C. 504(a)(1) and (b)(1)(C) limited a court's power to award such fees for administrative proceedings to those situations "in which the position of the United States is represented by counsel." Although recognizing that the Secretary was not so represented in the remand proceedings, the court found that these proceedings were "adversarial" because the Secretary had taken an adversarial position in the judicial review proceedings prior to the remand, and, therefore, a fee award encompassing work performed before SSA on remand was proper.

The Supreme Court granted the Secretary's petition for *certiorari*. In affirming the decision of the Court of Appeals, the Supreme Court held that where a court orders a remand to the Secretary and retains continuing jurisdiction over the case pending a decision of the Secretary which will determine the claimant's entitlement to benefits, the proceedings on remand are an integral part of the "civil action" for judicial review and thus attorney's fees for representation on remand are avaialble, subject to the other limitations in the EAJA. The Supreme Court did agree, however, with the Secretary that for purposes of the EAJA Social Security benefit proceedings are not "adversarial" within the meaning of 5 U.S.C. 504(b)(1)(C) either initially or on remand from a court.

O'Connor, Supreme Court Justice

The issue before us in this case is whether a Social Security claimant is entitled to an award of attorney's fees under the Equal Access to Justice Act for representation provided during adminstrative proceedings held pursuant to a district court order remanding the action to the Secretary of Health and Human Services.

Respondent Elmer Hudson filed an application for the establishment of a period of disability and for disability benefits under the Social Security Act, 49 Stat. 620, as amended, 42 U.S.C. 301 *et seq.* (1982 ed. and Supp. V) on September 9, 1981. On the same day, she filed an application for supplemental security income under Title XVI of the Act. Respondent, now 50, submitted medical evidence indicating obesity, limitations in movement, and lower back pain. Her application for benefits was administratively denied, and that position was upheld on reconsideration by the Social Security Administration. Respondent requested and received a hearing before an Administrative Law Judge (ALJ) where she was represented by a Legal Services Corporation paralegal. At the hearing, respondent testified that she suffered from back pain, depression, and nervousness. Respondent was in a state of anxiety and cried throughout the hearing. The ALJ ordered a posthearing psychiatric examination by Dr. Anderson, a psychiatrist, and respondent's representative chose to have her undergo an additional evaluation by Dr. Myers, a clinical psychologist. Dr. Anderson's report indicated that respondent suffered from mild to moderate dysthymic disorder and a histrionic personality disorder. He concluded that respondent's psychological condition would not interfere with her ability to work in the domestic services area, where most of her past work experience lay. Dr. Myers found that respondent was moderately to severely depressed, suffered from insomnia, fatigue, psychomotor retardation, tearfulness and anxiety. He concluded that her psychological problems, coupled with her mild physical disabilities and back pain, rendered her unemployable absent exhaustive rehabilitative efforts.

Based on these two reports, the ALJ rendered her decision finding that respondent was not disabled because she was capable of performing work similar to that she had done in the past. The ALJ's decision was approved by the Social Security Appeals Council, thus becoming the final decision of the Secretary concerning respondent's applications. Respondent then brought an action in the District Court for the Northern District of Alabama under 42 U.S.C. 405(g) seeking judicial review of the Secretary's decision denying benefits. The District Court found that the Secretary's decision was supported by substantial evidence and affirmed the denial of benefits. App. to Pet. for Cert. 43a–44a. The Court of Appeals for the Eleventh Circuit reversed. It vacated the Secretary's decision and instructed the District Court to remand the case to the Secretary for reconsideration. *Hudson* v. *Heckler*, 755 F.2d 781 (1985). The Court of Appeals agreed with respondent that "the Secretary did not follow her own regulations" in making the disability determination in respondent's case. *Id.*, at 785. The court found that those regulations required the Secretary to consider the cumulative effect of impairments even where no individual ailment considered in isolation would be disabling. *Ibid.* In respondent's case the ALJ had never considered the combined effect of respondent's physical and psychlogical afflictions. Nor had the ALJ given any reasons for her rejection of Dr. Myers' evaluation of the combined effects of respondent's physical and psychological conditions. *Id.*, at 785–786.

Following the District Court's remand order, the Social Security Appeals Council vacated its earlier denial of respondent's request for review and returned the case to an ALJ for further proceedings. App. to Pet. for Cert. 30a. The Appeals Council instructed the ALJ to provide respondent with an opportunity to testify at a supplemental hearing and to adduce additional evidence. *Id.*, at 31a. The Appeals Council also indicated that the ALJ might wish to obtain the services of a medical advisor to evaluate respondent's psychiatric impairment during the period at issue. *Ibid.* Finally, the Appeals Council instructed the ALJ to apply the revised regulations for determining disability due to mental disorders which had been published by the Secretary in 1985 pursuant to statutory directive. *Ibid.* On remand, the ALJ found that respondent had been disabled as of May 15, 1981, as she had originally maintained in her initial applications for benefits. Respondent was represented before the ALJ in the remand proceedings by the same counsel who had represented her before the District Court and the Court of Appeals.

On October 22, 1986, the Appeals Council adopted the ALJ's recommended decision and instructed the Social Security Administration to pay respondent disability and supplemental income benefits. *Id.*, at 21a–23a. On December 11, 1986, the District Court, pursuant to the Secretary's motion, dismissed respondent's action for judicial review,

finding that after the remand order respondent had obtained all the relief prayed for in her complaint. The District Court retained jurisdiction over the action for the limited purpose of considering any petition for the award of attorney's fees. Respondent then filed the instant petition for an award of attorney's fees under the Equal Access to Justice Act (EAJA), Pub. L. 96-481, 94 Stat. 2328, as amended, 28 U.S.C. 2412(d) (1982 ed., Supp. V). The District Court denied respondent's fee application in toto, finding that the position taken by the Secretary in the initial denial of benefits to respondent was "substantially justified." App. to Pet. for Cert. 17a-20a. The Court of Appeals again reversed. 839 F.2d 1453 (CA11 1988). The Court of appeals noted that in its earlier opinion it had found that the Secretary had violated her own regulations by failing to consider the cumulative effect of respondent's ailments, and that the ALJ had failed to give her reasons for rejection of Dr. Myers' testimony concerning the cumulative effects of respondent's ailments. *Id.*, at 1457-1458. The Secretary's defense of the denial of benefits to respondent "on those two grounds was not substantially justified." *Id.*, at 1458. Having concluded that an award of attorney's fees was proper under the EAJA, the court went on to consider whether the award could include attorney's fees for work done at the administrative level after the cause was remanded to the Secretary by the District Court. The Court of Appeals rejected the Secretary's argument that 5 U.S.C. 504(a)(1) and 504(b)(1)(C) (1982 ed., Supp. V) limited a court's power to award attorney's fees for administrative proceedings to those situations "in which the position of the United States is represented by counsel or otherwise * * *." While recognizing that the Secretary was not represented by counsel in the remand proceedings at issue here, the Court of Appeals found that "the critical determination is whether the Secretary has staked out a position." 839 F.2d, at 1460. Since the Secretary had taken an adversarial position in the proceedings for judicial review prior to the remand, the Court of Appeals found that the proceedings were no less "adversarial" on remand before the agency, and therefore a fee award encompassing work performed before the agency on remand was proper. *Ibid.*

Because the Court of Appeal's decision granting attorney's fees for representation in administrative proceedings on remand from judicial review of a Social Security benefits determination conflicts with the decisions of other Courts of Appeals, see, *e.g.*, *Cornella* v. *Schweiker*, 728 F.2d 978, 988-989 (C.A.8, 1984); we granted the Secretary's petition for certiorari. *Sub nom. Bowen* v. *Hudson*, 488 U.S.——, 109 S. Ct. 527, 102 L.Ed.2d 559 (1988).

II

In 1980, Congress passed the EAJA in response to its concern that persons "may be deterred from seeking review of, or defending against, unreasonable governmental action because of the expense involved in securing the vindication of their rights." 94 Stat. 2325. As the Senate Report put it:

"For many citizens, the costs of securing vindication of their rights and the inability to recover attorney fees preclude resort to the adjudicatory process * * *. When the cost of contesting a Government order, for example, exceeds the amount at stake, a party has no realistic choice and no effective remedy. In these cases, it is more practical to endure an injustice that to contest it." S. Rep. No. 96-253, p. 5 (1979).

The EAJA was designed to rectify this situation by providing for an award of a reasonable attorney's fee to a "prevailing party" in a "civil action" or "adversary adjudication" unless the position taken by the United States in the proceeding at issue "was substantially justified" or "special circumstances make an award unjust." That portion of the Act applicable to "civil actions" provides, as amended, in relevant part that

"[e]xcept as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses * * * incurred by that party in any civil action * * * including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust." 28 U.S.C. 2412(d)(1)(A) (1982 ed., Supp. V).

Application of this provision to respondent's situation here requires brief consideration of the structure of administrative proceedings and judicial review under the Social Security Act. Once a claim has been processed administratively, judicial review of the Secretary's decision is available pursuant to section 205(g) of the Social Security Act, 42 U.S.C. 405(g), which provides in pertinent part:

"Any individual, after any final decision of the Secretary made after a hearing to which he was a party, * * * may obtain a review of such decision by a civil action * * *. The court shall have the power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a rehearing * * *. The court may, on motion of the Secretary for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding; and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based."

As provisions for judicial review of agency action go, section 405(g) is somewhat unusual. The detailed provisions for the transfer of proceedings from the courts to the Secretary and for the filing of the Secretary's subsequent findings with the court suggest a degree of direct interaction between a Federal court and an administrative agency alien to traditional review of agency action under the Administrative Procedure Act. As one source puts it:

"The remand power places the courts, not in their accustomed role as external overseers of the administrative process, making sure that it stays within legal bounds, but virtually as coparticipants in the process, excercising ground-level discretion of the same order as that exercised by ALJs and the Appeals Council when they act upon a request to reopen a decision on the basis of new and material evidence." J. Mashaw, C. Goetz, F. Goodman, W. Schwartz, P. Verkuil, & M. Carrow, Social Security Hearings and Appeals 133 (1978).

Where a court finds that the Secretary has committed a legal or factual error in evaluating a particular claim, the district court's remand order will often include detailed instructions concerning the scope of the remand, the evidence to be adduced, and the legal or factual issues to be addressed. See, *e.g.*, *Cooper* v. *Bowen* 815 F.2d 557, 561 (C.A.9, 1987). Often complex legal issues are involved, including classification of the claimant's alleged disability or his or her prior work experience within the Secretary's guidelines or "grids" used for determining claimant disability. See, *e.g.*, *Cole* v. *Secretary of Health and Human Services*, 820 F.2d 768, 772-773 (C.A.6, 1987). Deviation from the court's remand order in the subsequent administrative proceedings is itself legal error, subject to reversal on further judicial review. See, *e.g.*, *Hooper* v. *Heckler*, 752 F.2d 83, 88 (C.A.4, 1985); *Mefford* v. *Gardner*, 383 F.2d 748, 758-759 (C.A.6, 1967). In many remand situations, the court will retain jurisdiction over the action pending the Secretary's decision and its filing with the Court. See *Ahghazali* v. *Secretary of Health and Human Services*, 867 F.2d 921, 927 (C.A.6, 1989) (remanding action to District Court with instructions to retain jurisdiction during proceedings on remand before the agency); *Taylor* v. *Heckler*, 778 F.2d 674, 677, n. 2 (C.A.11, 1985) ("[T]he district court retains jurisdiction of the case until the proceedings on remand have been concluded"); accord *Brown* v. *Secretary of Health and Human Services*, 747 F.2d 878, 883-885 (C.A.3, 1984). The court retains the power in such situations to assure that its prior mandate is effectuated. See *Ford Motor Co.* v. *NLRB*, 305 U.S. 364, 373, 59 S.Ct. 301, 307, 83 L.Ed. 221 (1939).

Two points important to the application of the EAJA emerge from the interaction of the mechanisms for judicial review of Social Security benefits determinations and the EAJA. First, in a case such as this one, where a court's remand to the agency for further administrative proceedings does not necessarily dictate the receipt of benefits, the claimant will not normally attain "prevailing party" status within the meaning of section 2412(d)(1)(A) until after the result of the administrative proceedings is known. The situation is for all intents and purposes identical to that we addressed in *Hanrahan* v. *Hampton*, 446 U.S. 754, 100 S.Ct. 1987, 64

L.Ed.2d 670 (1980). There we held that the reversal of a directed verdict for defendants on appeal did not render the plaintiffs in that action "prevailing parties" such that an interim award of attorney's fees would be justified under 42 U.S.C. 1988. We found that such "procedural or evidentiary rulings" were not themselves "matters on which a party could 'prevail' for purposes of shifting his counsel fees to the opposing party under section 1988." *Id.*, at 759, 100 S.Ct., at 1990. More recently in *Texas State Teachers Assn.* v. *Garland Independent School Dist.*, 489 U.S.——, 109 S.Ct. 1486, 103 L.Ed.2d 866 (1989), we indicated that in order to be considered a prevailing party, a plaintiff must achieve some of the benefit sought in bringing the action. *Id.*, at——, 109 S.Ct. at——. We think it clear that under these principles a Social Security claimant would not, as a general matter, be a prevailing party within the meaning of the EAJA merely because a court had remanded the action to the agency for further proceedings. See *Hewitt* v. *Helms*, 482 U.S. 755, 760, 107 S.Ct. 2672, 2675–76, 96 L.Ed.2d 654 (1987). Indeed, the vast majority of the Courts of Appeals have come to this conclusion. See, *e.g.*, *Paulson* v. *Bowen*, 836 F.2d 1249, 1252 (C.A.9, 1988)d; *Swedberg* v. *Bowen*, 804 F.2d 432, 434 (C.A.8, 1986); *Brown* v. *Secretary of Health and Human Services*, 747 F.2d, at 880–881.

Second, the EAJA provides that an application for fees must be filed with the court "within thirty days of final judgment in the action." 28 U.S.C. 2412(d)(1)(B) (1982 ed., Supp. V). As in this case, there will often be no final judgment in a claimant's civil action for judcial review until the administrative proceedings on remand are complete. See *Guthrie* v. *Schweiker* 718 F.2d 104, 106 (C.A.4, 1983) ("[T]he procedure set forth in 42 U.S.C. 405(g) contemplates additional action both by the Secretary and a district court before a civil action is concluded following a remand"). The Secretary concedes that a remand order from a district court to the agency is not a final determination of the civil action and that the district court "retains jurisdiction to review any determination rendered on remand." Brief for Petitioner 16, 16–17.

Thus, for purposes of the EAJA, the Social Security claimant's status as a prevailing party and the final judgment in her "civil action . . . for review of agency action" are often completely dependent on the successful completion of the remand proceedings before the Secretary. Moreover, the remanding court continues to retain jurisdiction over the action within the meaning of the EAJA, and may exercise that jurisdiction to determine if its legal instructions on remand have been followed by the Secretary. Our past decisions interpreting other fee-shifting provisions make clear that where administrative proceedings are intimately tied to the resolution of the judicial action and necessary to the attainment of the results Congress sought to promote by providing for fees, they shoud be considered part and parcel of the action for which fees may be awarded.

In Pennsylvania v. *Delaware Valley Citizens's Council*, 478 U.S. 546, 106 S.Ct. 3088, 92 L.Ed.2d 439 (1986), we considered whether the costs of representation before Federal and State administrative agencies in defense of the provisions of a consent decree entered under the Clean Air Act were compensable under the fee-shifting provision of that statute. Section 304(d) of the Clean Air Act provides for the award of a reasonable attorney fee in conjunction with "any final order in any action brought pursuant to" certain provisions of the Act. 42 U.S.C. § 7604(d). In *Delaware Valley*, we rejected the contention that the work "action" in the fee-shifting provision should be read narrowly to exclude all proceedings which could be plausibly characterized as "non-judicial." We indicated that

"[a]lthough it is true that the proceedings [at issue] were not 'judicial' in the sense that they did not occur in a courtroom or involve 'traditional' legal work such as examination of witnesses or selection of jurors for trial, the work done by counsel in these two phases was as necessary to the attainment of adequate relief for their client as was all of their earlier work in the courtroom which secured Delaware Valley's initial success in obtaining the consent decree." 478 U.S. at 557, 106 S.Ct. at 3094.

Similarly, in *New York Gas Light Club, Inc.* v. *Carey*, 447 U.S. 54, 100 S.Ct. 2024, 64 L.Ed.2d 723 (1980), we held that under the fee-shifting provision of title VII, 42 U.S.C. 2000e–5(k), a Federal court could award attorney's fees for services performed in state administrative and judicial enforcement proceedings. We noted that the words of the statute, authorizing "the court" to award attorney's fees "[i]n any action or proceeding under this title," could be read to include only Federal administrative or judicial proceedings. 447 U.S., at 60–61, 100 S.Ct., at 2029–30. Looking to the entire structure of title VII, we observed that Congress had mandated initial resort to state and local remedies, and that "Congress viewed proceedings before the EEOC and in Federal court as supplements to available state remedies for employment discrimination." *Id.*, at 65, 100 SCt., at 2031. Given this interlocking system of judicial and administrative avenues to relief, we concluded that the exclusion of State and local administrative proceedings from the fee provisions would clearly clash with the congressional design behind the statutory scheme whose enforcement the fee-shifting provisions was designed to promote. *Ibid.* See also *Webb* v. *Dyer County Board of Education*, 471 U.S. 234, 243, 105 S.Ct. 1923, 1928, 85 L.Ed.2d 233 (1985) (work performed in administrative proceedings that is "both useful and of a type ordinarily necessary to advance civil rights litigation" may be compensable under § 1988); *North Carolina Dept. of Transportation* v. *Crest Street Community Council, Inc.*, 479 U.S. 6, 15, 107 S.Ct. 336, 342, 93 L.Ed.2d 188 (1986).

We think the principles we found persuasive in *Delaware Valley* and *Carey* are controlling here. As in *Delaware Valley*, the administrative proceedings on remand in this case were "crucial to the vindication of [respondent's] rights." *Delaware Valley, supra*, at 561, 106 S.Ct., at 3096. No fee award at all would have been available to respondent absent successful conclusion of the remand proceedings, and the services of an attorney may be necessary both to ensure compliance with the district court's order in the administrative proceedings themselves, and to prepare for any further proceedings before the district court to verify wuch compliance. In addition, as we did in *Carey*, we must endeavor to interpret the fee statute in light of the statutory provisions it was designed to effectuate. Given the "mandatory" nature of the administrative proceedings at issue here, and their close relation in law and fact to the issues before the district court on judicial review, we find it difficult to ascribe to Congress an intent to throw the Social Security claimant a lifeline that it knew was a foot short. Indeed, the incentive which such a system would create for attorneys to abandon claimants after judicial remand runs directly counter to long established ethical canons of the legal profession. See American Bar Association, Model Rules of Professional Conduct, Rule 1.16, pp. 53–55 (1984). Given the anomalous nature of this result, and its frustration of the very purposes behind the EAJA itself, Congress cannot lightly be assumed to have intended it. See *Christianburg Garment Co.* v. *EEOC*, 434 U.S. 412, 418–419, 98 S.Ct. 694, 698–99, 54 L.Ed.2d 648 (1978). Since the judicial review provisions of the Social Security Act contemplate an ongoing civil action of which the remand proceedings are but a part, and section 2412(d)(1)(A) of the EAJA allows "any court having jurisdiction of that action" to award fees, we think the statute, read in light of its purpose "to diminish the deterent effect of seeking review of, or defending against, governmental action." 94 Stat. 2325, permits a court to award fees for services performed on remand before the Social Security Administration. Where a court finds that the Secretary's position on judicial review was not substantially justified within the meaning of the EAJA, see *Pierce* v *Underwood*, 487 U.S.——,——,108 S.Ct. 2541,——,101 L.Ed.2d 490 (1988), it is within the court's discretion to conclude that representation on remand was necessary to the effectuation of its mandate and to the ultimate vindication of the claimant's rights, and that an award of fees for work performed in the administrative proceeds is therefor proper. See *Delaware Valley, supra*, at 561, 106 S.Ct., at 3096; *Webb, supra*, 471 U.S., at 243, 105 S.Ct., at 1928.

The Secretary mounts two interrelated challenges to this interpretation of Section 2412(d)(1)(A). While the Secretary's contentions are not without some force, neither rises to the level necessary to oust what we think is the most reasonable interpretation of the statute in light of its manifest purpose. First, the Secretary argues that plain meaning of the term "civil action" in Section 2412(d)(1)(A) excludes any proceedings outside of a court of law. Brief for Petitioner 12–13; Reply Brief for Petitioner 8–9. Of course, if the plain language of the EAJA evinced a congressional intent to preclude the interpretation we reach here, that would be the end of the matter. In support of this proposition, the secretary points out that the " '[t]erm [action] in its

usual legal sense means a suit brought in a court; a formal complaint within the jurisdiction of a court of law.' " Brief for Petitioner 13, n. 7, quoting Black's Law Dictionary 26 (5th ed. 1979). Second, the Secretary notes that Congress did authorize EAJA fee awards under 5 U.S.C. 504(a)(1) (1982 ed., Supp. V) where an agency "conducts an adversary adjudication," and that an adversary adjudication is defined in Section 504(b)(1)(C) (1982 ed., Supp. V) as "an adjudication . . . in which the position of the United States is represented by counsel or otherwise." Under 28 U.S.C. 2412(d)(3) (1982 ed., Supp. V) a court is empowered to award fees for a representation before an agency to a party who prevails in an action for judicial review to "the same extent authorized in [5 U.S.C. 504(a)]." Thus, the Secretary concludes that since benefits proceedings before the Secretary and his designates are nonadversarial, and a court is explicitly empowered to award fees for agency proceedings where such proceedings satisfy the requirements of Section 504(a)(1), the principle of *expressio unius est exclusio alterius* applies, and a court may never award fees for time spent in nonadversarial administrative proceedings. See Brief for Petitioner 12–18; Reply Brief for Petitioner 7–12.

We agree with the Secretary that for purposes of the EAJA Social Security benefit proceedings are not "adversarial" within the meaning of Section 504(b)(1)(C) either initially or on remand from a court. See *Richardson* v. *Perales*, 402 U.S. 389, 4093, 91 S.Ct. 1420, 1428, 28 L.Ed.2d 842 (1971). The plain language of the statute requires that the United States be represented by "counsel or otherwise," and neither is true in this context. Nonetheless, we disagree with the conclusion the Secretary would draw from this fact. First, as *Delaware Valley, Webb*, and *Carey* indicate, administrative proceedings may be so intimately connected with judicial proceedings as to be considered part of the "civil action" for purposes of a fee award. This is particularly so in the Social Security context where "a suit [has been] brought in a court" and a "formal complaint within the jurisdiction of a court of law," remains pending and depends for its resolution upon the outcome of the administrative proceedings. Second, we disagree with the Secretary's submission that a negative implication can be drawn from the power granted a court to award fees based on representation in a prior adversary adjudication before an agency. Section 2412(d)(3) provides that "[i]n awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an adversary adjudication" the court may award fees to the same extent that they would have been available before the agency itself under Section 504(a)(1). On its face, the provision says nothing about the power of a court to award reasonable fees for representation in a *nonadversarial* adjudication which is wholly ancillary to a civil action for judicial review. That Congress carved the world of EAJA proceedings into "adversary adjudications" and "civil actions" does not necessarily speak to, let alone preclude, a reading of the term "civil action" which includes administrative proceedings necessary to the completion of a civil action.

We conclude that where a court orders a remand to the Secretary in a benefits litigation and retains continuing jurisdiction over the case pending a decision from the Secretary which will determine the claimant's entitlement to benefits, the proceedings on remand are an intergral part of the "civil action" for judicial review and thus attorney's fees for representation on remand are available subject to the other limitations in the EAJA. We thus affirm the judgment of the Court of Appeals on this issue and remand the case to that court for further proceedings consistent with this opinion.

It is ordered.

Justice O'Connor delivered the opinion of the Court, in which Justices Brennan, Marshall, Blackmun and Stevens joined. Justice White filed a dissenting opinion, in which Chief Justice Rehnquist and Justices Scalia and Kennedy joined.

[FR Doc. 92–10087 Filed 4–30–92; 8:45 am]

BILLING CODE 4190–29–M

Social Security Disability Program Demonstration; Project NetWork: Contractor, Vocational Rehabilitation Outstationing, and Referral Manager Models Under Project NetWork

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: The Commissioner of Social Security (the Commissioner) announces the implementation of the final three models of a Social Security Administration (SSA) disability program demonstration project known as Project NetWork. Project NetWork will test ways to increase opportunities for Social Security Disability Insurance (SSDI) beneficiaries and for applicants for and recipients of Supplemental Security Income (SSI) payments based on disability or blindness to receive the services they need to return to work or work for the first time. This notice pertains only to the Contractor, Vocational Rehabilitation (VR) Outstationing, and Referral Manager Models. The SSA Case Manager Model was announced in the **Federal Register** on March 11, 1991 (56 FR 10276).

FOR FURTHER INFORMATION CONTACT: Mr. Jack Baumel, Social Security Administration, Office of Disability, 560 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland, 21235, Phone (410) 965–9834.

SUPPLEMENTARY INFORMATION:

Background

Project NetWork consists of four models which will test ways to increase opportunities for SSDI beneficiaries and for applicants for and recipients of SSI payments based on disability or blindness to receive the services they need to return to work or work for the first time. Three models, the initial SSA Case Manager Model, previously announced, and the new Contractor and VR Outstationing Models, will demonstrate methods of case management service delivery that are new to SSA. They will focus on vocational assessment, rehabilitation, and placement into competitive employment. The fourth model, the Referral Manager Model, will focus on developing good networks of service providers, advocacy groups, and other agencies; and on making referrals to those providers best able to serve the individual. Certain provisions of the Social Security Act (the Act) and of the implementing regulations will be waived to conduct all models under the project.

All models of Project NetWork will be conducted under section 505(a) of Public Law 96–265, as amended, and section 1110(b) of the Act which provide authority to waive certain provisions of the Act to carry out certain experiments and demonstration projects. Section 505(a) of Public Law 96–265, as amended by section 12101 of Public Law 99–272 and section 10103 of Public Law 101–239, directs the Secretary of Health and Human Services (the Secretary) to develop and carry out experiments and demonstration projects designed to (1) encourage disabled beneficiaries to return to work and (2) accrue trust fund savings or otherwise promote the objectives or facilitate the administration of title II of the Act. Section 505(a)(3) of Public Law 96–265, as amended, authorizes the Secretary to waive compliance with the benefit requirements of titles II and XVIII of the Act insofar as necessary to carry out these experiments and demonstration projects. In addition, section 1110(b) of the Act authorizes the Secretary to waive any of the requirements, conditions, or limitations of title XVI of the Act to carry out experimental, pilot, or demonstration projects which are likely to assist in promoting the objectives or facilitate the administration of the SSI program.

For purposes of Project NetWork, we are waiving sections 222(a) and 1615(a) of the Act, which require that SSDI beneficiaries and disabled or blind SSI recipients be referred to State VR agencies. The waiver of these provisions

will permit SSA to make direct referrals of beneficiaries and recipients to private or public VR organizations other than the State VR agencies.

Section 222(c) of the Act provides a "period of trial work" of 9 months' duration which offers title II disability beneficiaries the opportunity to test their ability to work without losing benefits; the 9 months need not be consecutive. Section 222(c)(4)(A) of the Act and the implementing regulations at 20 CFR 404.1592(a) require that any month in which a beneficiary renders "services" must be counted in determining his or her 9-month trial work period (TWP). Under the demonstration project, for title II disability beneficiaries who are entitled to a TWP of 9 months' duration or less, the requirement in section 222(c)(4)(A) of the Act and 20 CFR 404.1592(a) will be waived for the purpose of excluding work activity and earnings resulting from an individual's employment for up to 12 months while he or she is a project participant in counting a title III disability beneficiary's TWP months.

Section 5112 of Public Law 101-508 (the Omnibus Budget Reconciliation Act of 1990), effective January 1, 1992, provides that a disabled beneficiary will have exhausted his or her TWP if services were performed in any 9 months within a rolling period of 60 consecutive months. Once this occurs, the TWP is closed for that period of disability. This section also repeals the preexisting provision that precluded a TWP in subsequent periods of disability.

Section 223(d)(4) of the Act requires the Secretary to prescribe by regulations criteria for determining when services performed by an individual or earnings from services demonstrate an individual's ability to engage in substantial gainful activity (SGA) for purposes of the disability program under title II of the Act. The criteria for determining whether an individual is engaged in SGA are set forth in 20 CFR 404.1571 through 404.1576. For purposes of the demonstration project, section 223(d)(4) of the Act and 20 CFR 404.1571 through 404.1576 will be waived insofar as necessary to exclude a title II disability beneficiary's work activity and earnings from employment while a project participant from consideration in determining whether the beneficiary is engaged in SGA. Under this waiver, work activity and earnings will be excluded only for purposes of determining continuing entitlement to benefits based on disability under section 202(d), (e), and (f) and section 223 of the Act and continuing entitlement to benefit payments under section 223(e) of the Act. This waiver will exclude an individual's work activity and earnings for up to 12 months while he or she is a project participant.

Lastly, work activity for disabled or blind SSI recipients who participate in the project will not occasion a continuing disability or blindness review. Therefore, it is necessary to waive section 1619(a)(2) of the Act, which requires a determination with regard to whether an individual continues to have a disabling impairment no later than 12 months after the first month for which an SSI recipient qualities for a benefit under the section 1619(a) provision. For an individual who first qualities for section 1619(b) status after being in regular SSI benefit status (section 1611), the requirement of a determination as to whether he or she continues to be blind or disabled will also be waived. In addition, it is necessary to waive for a 12-month period the application of section 1631(j)(2) of the Act to participants in the project. Section 1631(j)(2) requires the performance of continuing disability reviews for certain individuals with significant earned income who have been or are eligible for a section 1619 status.

We are publishing this notice to comply with 20 CFR 404.1599(e) and 20 CFR 416.250(e), which provide for publication of a notice in the Federal Register before placing certain demonstration projects in operation.

Overall Objectives

SSA wishes to encourage its disabled or blind beneficiaries and recipients in entering or returning to competitive employment. SSA's focus is on significantly improved integration and use of VR and other employment program resources providing for more employment opportunities; better mechanisms for identifying and referring candidates for rehabilitation and other employment services; more effective incentives for rehabilitation and employment; increased access to employment service systems and networks; and more effective and efficient employment intervention for beneficiaries.

Description of the Project

Each of the three models we are announcing will last for 24 months, following a pilot phase, beginning in 1992 and will take place in SSA field offices in two metropolitan areas. The three models are:

- The Contractor Model, which features the use of private sector case managers under contact to SSA to perform a broad range of case management duties, including the coordination and delivery of rehabilitation, employment, and support services from providers in the public and private sector;
- The VR Outstationing Model, which features the use of State VR agency counselors outstationed in SSA field offices to perform the same type of services described in the Contractor Model above; and
- The SSA Referral Manager Model, which features the use of SSA employees as referral specialists to support SSDI beneficiaries and applicants for or recipients of SSI payments based on disability or blindness in returning to work or working for the first time by providing appropriate referrals to service providers, working in partnership (including sharing costs) with other agencies to build effective networks of services, and by providing counseling, support, and monitoring services.

Project NetWork will test new methods of service delivery that (1) create a new field office case manager/referral manager function to ensure access to appropriate rehabilitation and employment services; (2) actively promote the use of work incentives through aggressive marketing and outreach activities; and (3) encourage SSA clients to receive services from all sources including other public and private providers. The demonstration is designed to enable a client who is motivated and has the potential to work to receive appropriate services in the most timely manner.

Authority

Section 505(a) of Pub. L. 96-265 (the Social Security Disability Amendments of 1980), as amended by section 12101 of Pub. L. 99-272 and section 10103 of Pub. L. 101-239; and section 1110(b) of the Social Security Act.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802, Social Security-Disability Insurance; 93.803 Social Security-Retirement Insurance; 93.805 Social Security-Survivor's Insurance; 93.807-Supplemental Security Income.)

Dated: April 22, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 92-10214 Filed 4-30-92; 8:45 am]

BILLING CODE 4190-29-M

Social Security Acquiescence Ruling 91-X(5)—Lidy v. Sullivan, 911 F.2d 1075 (5th Cir. 1990)—Right to Subpoena an Examining Physician for Cross-Examination Purposes: Correction

ACTION: Correction notice.

SUMMARY: This notice corrects a notice: Social Security Acquiescence Ruling 91-X(5)—*Lidy* v. *Sullivan*, 911 F.2d 1075 (5th Cir. 1990)—Right to Subpoena an Examining Physician for Cross-Examination Purposes, published in the Federal Register on December 31, 1991 (56 FR 67625).

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-8470.

SUPPLEMENTARY INFORMATION: In notice document 91-31231 appearing on page 67625 in the issue of Tuesday, December 31, 1991, make the following corrections:

a. Change the Social Security Acquiescence Ruling number from 91-X(3) to 91-1(5) as follows:

1. On page 67625, in the 2nd column, the 2nd line of the title,

2. On page 67625, in the 3rd column, the 5th line of the SUMMARY, and

3. On page 67626, in the 1st column, the 11th line, in the title.

b. On page 67626, in the 2nd column, 3rd paragraph under the title "Statement as to How Lidy Differs from SSA Policy," 11th line, remove the words "Section I-2-540 states" and insert "These instructions state."

Dated: April 22, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 92-10216 Filed 4-30-92; 8:45 am]

BILLING CODE 4190-29-M

Social Security Acquiescence Ruling 91-X(3)—Mazza v. Secretary of Health and Human Services, 903 F.2d 953 (3d Cir. 1990—Order of Effectuation in Concurrent Application Cases (Title II/ Title XVI Offset): Correction

ACTION: Correction Notice.

SUMMARY: This notice corrects a notice: Social Security Acquiescence Ruling 91-X(3)—*Mazza* v. *Secretary of Health and Human Services*, 903 F.2d 953 (3d Cir. 1990—Order of Effectuation in Concurrent Application Cases (Title II/ Title XVI Offset), published in the Federal Register on January 10, 1992 (57 FR 1190).

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-8470.

SUPPLEMENTARY INFORMATION: In notice document 92-612 appearing on page 1190 in the issue of Friday, January 10, 1992, make the following corrections:

a. Change the Social Security Acquiescence Ruling number from 91-X(3) to 92-1(3) as follows:

1. In the 1st column, the 2nd line of the title,

2. In the 1st column, the 5th line of the SUMMARY, and

3. In the 2nd column, the 37th line, in the title.

b. In the 1st column, the 4th line of the title, insert a closed parenthesis after the date 1990.

c. In the 1st column, the 3rd line of the SUMMARY, insert a closed parenthesis after the numbers 1012.

d. In the 2nd column, the first line, remove the words "in the Federal Register."

Dated: April 22, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 92-10215 Filed 4-30-92; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-1917; FR-2934-N-76]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: May 1, 1992.

ADDRESSES: For further information, contact James Forsberg, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

CORRECTION: Building 2138 at Ft. Leonard Wood, Missouri was inadvertently listed in the April 10 notice. It should have read Building 2178.

Dated: April 24, 1992.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 92-10023 Filed 4-30-92; 8:45 am]

BILLING CODE 4210-29-M

[Docket No. N-92-3224; FR-3003-N-02]

Announcement of Funding Awards for Historically Black Colleges and Universities Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(c) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards made under the Historically Black Colleges and Universities (HBCU) Program. The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to help HBCUs expand their role and effectiveness in addressing community development needs.

FOR FURTHER INFORMATION CONTACT: Lyn Whitcomb, Director, Technical Assistance Division, Office of Technical Assistance, Department of Housing and Urban Development, room 7150, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 707-2090. A telecommunications device for hearing impaired persons (TDD) is available at (202) 708-2565. (These are not toll-free telephone numbers.).

SUPPLEMENTARY INFORMATION: This program is authorized under section 107(b)(3) of the Housing and Community Development Act of 1974 (the 1974 Act). The program is governed by regulations contained in 24 CFR 570.400, 570.404 and 24 CFR part 570, subparts A, C, J, K and

O. Only HBCUs as determined by the Department of Education in 34 CFR 608.2 in accordance with that Department's responsibilities under Executive Order 12677, dated April 28, 1989, are eligible to submit applications.

The objectives of this program are to help HBCUs expand their role and effectiveness in addressing community development needs, including neighborhood revitalization, housing and economic development in their localities, consistent with the purposes of the 1974 Act; and to help HBCUs address the priority needs of their localities in meeting HUD priorities.

In a Notice of Funding Availability (NOFA) published in the **Federal Register** on March 12, 1991 (56 FR 10496), the Department announced the availability of $4.5 million in funds for the HBCU program. The Department received 34 applications for funding, which were reviewed, evaluated and scored based on the criteria in the NOFA. As a result, HUD has awarded grants to 10 Historically Black Colleges and Universities.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing details concerning the recipients of these awards, as follows:

Historically Black Colleges and Universities (HBCU) Program Grants

1. Bowie State University

President

Dr. James E. Lyons, Sr., Bowie State University, Bowie, MD 20715, Telephone: (301) 464–6500.

Project Director

Dr. Dora Alwan, (301) 464–3348.

Project Funds

HUD Grant Award: $197,237.
Local Match: $55,000.
Applicant In-Kind: $30,000.

Proposal Description

A partnership between Bowie State University and the National Business League of Southern Maryland will provide counseling and technical assistance to new business start-ups and developing business owned by low- and moderate-income persons.

Proposed Features

(1) Design, develop, implement and evaluate a pilot demonstration model small business incubator center; and

(2) Provide training, technical assistance, and other support services for non-profit housing groups and community organizations.

2. Clark Atlanta University

President

Dr. Thomas W. Cole, Jr., Clark Atlanta University, James P. Brawley Drive at Fair Street, SW, Atlanta, GA 30314, Telephone: (404) 880–8500.

Project Director

Dr. Edward L. Davis, (404) 880–8401.

Project Funds

HUD Grant Award: $497,910.
Private: $28,000.
Applicant In-Kind: $21,559.

Proposal Description

The University currently has a Community Development Corporation (UCDC) organized in 1988 to explore ways for improving the quality of life of the low-moderate income population. Areas targeted for improvement are:

(1) Low-moderate income housing;

(2) Economic development; and

(3) Health & human services.

This proposal represents a collaboration of 3 organizations of the University with competencies to address the 3 critical areas cited: the UCDC, School of Business and Economic Development, aid the School of Social Work. The UCDC's Staff involvement will primarily be in the area of housing.

Proposed Features

(1) Acquire and rehabilitate 4 vacant, deteriorated single family homes for resale or rent to low-moderate income persons;

(2) Spur job development in 2 depressed areas by providing technical assistance and implementing a model for redevelopment;

(3) Develop a model for economic self-sufficiency for public housing residents;

(4) Provide technical assistance to various organizations in the implementation of the West End Redevelopment plan;

(5) Assess availability of land for development within the Martin Luther King Center Corridor;

(6) Ascertain consumer profile, needs and demands;

(7) Conduct business services supply and demand analysis;

(8) Prepare quarterly newsletters;

(9) Conduct demographic analysis;

(10) Identify 15 single parents wishing to participate; and

(11) Develop individual educational vocational plans.

3. Elizabeth City State University

Chancellor

Dr. Jimmy R. Jenkins, Elizabeth City State University, Elizabeth City, NC 27909, Telephone: (919) 335–3230.

Project Director

Mr. Morris Autry, (919) 335–3702.

Project Funds

HUD Grant Award: $500,000
Local: $5,000
Private: $275,000
Applicant In-Kind: $16,500

Proposal Description

The University proposes to assume a leading role in addressing the pressing community development needs within the City of Elizabeth City including neighborhood revitalization, housing and economic development activities.

The University plans to undertake a series of tasks within the City of Elizabeth City, which will help preserve and revitalize neighborhoods which have been plagued by community disinvestment deterioration, crime and poverty.

Proposed Features

(1) Increase housing opportunities for low- and moderate-income persons (rehab, creative, finance, homeownership);

(2) Expand business and economic development opportunities for low- and moderate-income persons small business incubator designed to give inexpensive space and assistance to new businesses, and economic development projects to create new jobs, etc.);

(3) Implement fair housing education and outreach activities;

(4) Target outreach project to inform all persons of available housing opportunities; and

(5) Implement special programs designed to reduce drug abuse and trafficking in public housing and other drug infested areas of the city.

Other Innovative Features

(1) Local contractors will be used, whenever possible, to stimulate the local economy; and

(2) Several of the homes scheduled for rehabilitation and new construction will serve as training models to provide unemployed residents an opportunity to gain employable skills.

4. Johnson C. Smith University

President

Dr. Robert Albright, 100 Beatties Ford Road, Charlotte, NC 28216, Telephone: (704) 378–1000.

Contact Person

Dr. Robert L. Albright, (704) 378–1008.

Project Funds

HUD Grant Award: $407,445
Private: $192,216
Applicant In-Kind Contribution: $21,780

Proposal Description

The university is requesting HUD funding to support the administration and operation of its recently established Community Development Corporation. The goals of this new corporation are:

(1) To create a positive image for the area in which university is located;

(2) To spur economic development by creating opportunities for residents to operate their own businesses);

(3) To develop affordable and mixed-use housing;

(4) To develop community pride programs; and

(5) To conduct human services programs.

Proposed Features

(1) Assist in the construction of a office/retail complex in the corridor to provide job opportunities to area residents;

(2) Development of higher quality/more affordable mixed-use housing in the corridor;

(3) Continue economic development projects—identify sites for economic development;

(4) Implement a human services program;

(5) Conduct fund raising for the continued support of the Northwest Corridor Community Development Corporation; and

(6) Investigate the feasibility of a "for profit arm".

5. Lincoln University

President

Dr. Wendell G. Rayburn, Lincoln University, 830 Chestnut Street, Jefferson City, MO 65101, Telephone: (314) 681–5000.

Project Director

Dr. James E. Logan, (314) 681–5487.

Project Funds

HUD Grant Award: $490,000
Local Match: $150,000

Proposal Description

The proposed effort is a joint venture between Lincoln University and the Community Development Corporation of Kansas City (CDC–KC) for a Minority Business Development Program. The program will be based in the Entrepreneur Institute in the Kansas City Enterprise Zone.

Proposed Features

(1) Introductory workshops designed to introduce aspiring entrepreneurs to basic business ownership concepts and to assist them in determining whether or not they have a viable business concept. The workshop will be conducted by CDC–KC.

(2) Entrepreneurs training—those emerging from the workshops with a viable business concept will then enter a sixteen-week intensive business training course conducted by Lincoln University. During the course, each participant will develop a full business plan suitable for submission to investors and lenders.

(3) Provide technical assistance to both new and existing minority businesses in the Enterprise Zone. It will cover all aspects of business management and operations. Assistance will be made available to new and expanding firms in finding premises within the zone. This project component will be jointly staffed by Lincoln University and CDC–KC.

(4) the City will support the concept by providing funding for materials for the development of the institute. Also, the City will abate property taxes on the building for a period of ten years after its development. In addition, the State will provide Enterprise Zone Investment and Job Tax Credit to new businesses locating in the area.

6. North Carolina A&T State University—Greensboro

Chancellor

Dr. Edward B. Fort, North Carolina A&T State University, Greensboro, North Carolina 27411, (919) 334–7940.

Project Director

Dr. Gary S. Spring, (919) 334–7737.

Project Funds

HUD Grant Award: $499,963
Local Match: $244,000

Proposal Description

The City of Greensboro is in the process of implementing a Geographic Information System (GIS) to analyze community development. However, it lacks the required expertise to do so effectively. The City also is developing a housing data base that will assist in the preparation of its CHAS as well as meet criteria for funding under the 1990 National Housing Act. The City will be assisted in collecting and analyzing the data required to carry out these functions.

Proposed Features

(1) The development and application of a effective GIS system;

(2) The development of a data base to better describe the housing stock;

(3) The completion of an impact analysis of the City Housing Counseling center to provide program direction for future funds;

(4) Prepare a data base to describe housing stock and allow continuous tracking of changing market and shelter needs;

(5) Collect, analyze and map data of housing conditions, vacant properties, rental rates, occupancy rates, sales activities, permits, complaints, household income, ownership levels, etc.;

(6) Integrate this information into a computer system and produce reports and maps which the city can use to develop its CHAS; and

(7) Develop an evaluation model.

7. North Carolina Central University

Chancellor

Dr. Tyronza Richmond, North Carolina Central University, Durham, NC 27707, Telephone: (919) 560–6304

Project Director

Dr. Clarence Brown, (919) 560–6240.

Project Funds

HUD Grant Award: $407,445
Local: $120,000
Private: $650,000
Applicant In-Kind: $96,326

Proposal Description

The University proposes an economic development project in cooperation with the city of Durham, North Carolina and Hardee's Food Systems to achieve 2 objectives consistent with HUD's priorities:

(1) Expand the HBCU's role in addressing community development needs including neighborhood revitalization, housing and economic development; and

(2) Help address the City of Durham's priority needs such as job creation and job training for low-moderate income residents of public housing.

Proposed Features

(1) Land acquisition in the area known as the Hayti Redevelopment Area;

(2) Use city funds for site preparation;

(3) Long term lease of land for the construction of a minority owned and operated fas' food enterprise (Hardee's);

(4) Design and develop a low-moderate income housing and commercial development plan in the Hayti area;

(5) Development of a minority career and educational training program between the university and Hardee's;

(6) Development of a youth mentoring program between public housing residents and university students;

(7) Creation of 40–60 opportunities for low- moderate income residents in the redevelopment area;

(8) Conduct an economic development project leveraging city, private, and university resources;

(9) Use of project income by the university for public housing student scholarships; and

(10) Increase the number of black enterpreneurs.

8. St. Philip's College

President

Dr. Stephen R. Mitchell, Saint Philip's College, 2111 Nevada Street, San Antonio, TX 78203, (512) 531–3591.

Project Director

Ms. Mayme Bailey Williams, (512) 531–3261.

Project Funds

HUD Grant Award: $500,000.
Local Match: $650,000

Proposal Description

St. Philip's College, of the Alamo Community College District, in cooperation with the City of San Antonio, Texas proposes to construct a Learning and Leadership Development Center on College property to provide literacy and leadership development training to residents of the inner-city, urban community.

The construction of the Development Center on College property will assist in addressing a pressing community need, e.g. an illiteracy rate of over 25%, will be of benefit to low- and moderate income persons, will assist in the elimination of slums and blight will provide neighborhood revitalization, and will meet other community development needs.

Proposed Features

(1) Target the four (4) major public housing projects within the area and the three (3) census tracts with the highest rate of illiteracy;

(2) The proposed center will be located within a designated Enterprise Zone and a neighborhood redevelopment area, and will offer adult basic education and English as a second language classes; GED preparation and testing; job and career counseling and assessment; job readiness and placement assistance and entrepreneurial training; and

(3) Provide conference/meeting room space for use by community residents, many of whom are public housing residents.

9. Southern University at New Orleans

Chancellor

Dr. Robert Gex, Southern University at New Orleans, New Orleans, LA 70126, Telephone: (504) 286–5000.

Project Director

Ms. Ivory L. Williams, (504) 286–5098.

Project Funds

HUD Grant Award: $500,000
Private: $340,000

Proposal Description

The applicant will operate a Technology Transfer Center (TTC) for Community and Entrepreneurship Development. Program activities will be designed to address local community development (CD) objectives in the area of housing and economic development.

Proposed Features

(1) Provide leadership development training for members of the Neighborhood Advisory Committee and for public housing resident council groups in the city;

(2) Conduct neighborhood meetings and develop citizen input strategies for affordable housing and home ownership programs in low- and moderate-neighborhoods in the city;

(3) Initiate and support the incubator location incentive program between the University and the Almonaster Michaud Industrial District (a designated enterprise zone); and

(4) Initiate a private sector venture program to expand the economic development activities of the University with small and disadvantaged business programs of three major corporations in the city. Martin Marietta will be the major company for year one.

10. Texas Southern University

President

Dr. William Harris, Texas Southern University, 3100 Cleburne Avenue, Houston, TX 77004, (713) 527–7036.

Project Director

Ella M. Nunn, (713) 527–7785.

Project Funds

HUD Grant Award: $500,000
Private: $217,000

Proposal Description

The School of Business, the Departments of Public Affairs and the Department of Sociology are working together through the University's Economic Development Center, to develop a program to address the problems facing the residents of public housing and the homeless of Houston. The major activities of the program are to:

(1) Provide the homeless with housing, job skills, and employment; and

(2) Empower the poor through resident management skills and through more drug- and crime-free environments.

Proposed Features

(1) The revitalization of two sites to provide housing to accommodate the homeless. Site #1 is an 8-unit dwelling which will house 40 men at a time; site #2 contains 4 four-unit dwellings, two of which will be used to house 16 women with children, and two of which will be used to house 8 families;

(2) The selection of homeless individuals and the provision of housing and care for a period of approximately 6–17 months;

(3) Provision of educational training programs for job skills (in office automation for the women and families and in construction trades for the men—two cycles each over a 36-month period);

(4) Provision of training programs (e.g., job placement); affordable housing, and some relocation assistance;

(5) Provision of training in resident management and establishment of resident management programs (in two public housing complexes and the two sites for the homeless); and

(6) Development of drug elimination and crime prevention programs (in two public housing complexes and the two sites for the homeless).

Dated: April 24, 1992.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 92–10213 Filed 4–30–92; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-030-4333-12; Closure Notice NV-030-92-02]

Sand Mountain Recreation Area; Closure of Federal Lands to Camping, Carson City District, NV

AGENCY: Bureau of Land Management, Nevada.

ACTION: Closure of certain Federal lands to camping within the Sand Mountain Recreation Area, BLM, Carson City District, Nevada.

SUMMARY: Notice is hereby given that certain public lands within the Sand Mountain Recreation Area, approximately 26 miles east of Fallon, Nevada, are closed to camping. Most areas traditionally used as undeveloped campsites will remain open. This action is being taken in order to protect fragile desert vegetation, wildlife habitat and historic resources.

DATES: This closure goes into effect on June 15, 1992, to allow for analysis of public comments.

COMMENT PERIOD: The BLM requests comments from the public concerning this closure notice. The comment period will be open until June 1, 1992. Comments received or postmarked after the close of the comment period may not be considerd in making the final decision regarding this closure.

FOR FURTHER INFORMATION CONTACT: James M. Phillips, Lahontan Resource Area Manager, Carson City District Office, 1535 Hot Springs Road, suite 300, Carson City, Nevada 89706-0638. Telephone (702) 885-6100.

SUPPLEMENTARY INFORMATION: This closure order is necessary to:

(1) Protect frafile desert vegetation and wildlife habitat;

(2) Protect historic resources associated with the Sand Springs Pony Express Station; and

(3) Prevent unacceptable sanitary and solid waste disposal conditions.

Authority for implementing this closure is contained in the Code of Federal Regulations, title 43, chapter II, part 8360, subpart 8364. Any person who fails to comply with a closure order may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as specified in the Code of Federal Regulations, title 43, chapter II, part 6360, 6360.0-7.

This closure applies to all camping including, but not limited to, tent and recreational vehicle camping. This closure order is effective June 15, 1992, and shall remain in effect unless revised, revoked or amend.

The public lands affected by this closure are lands within the Sand Mountain Recreation Area and encompass:

Mt. Diablo Meridian

T.17N., R.32E.,
- Sec. 32;
- Sec. 33

T.16N., R.32E.,
- Sec. 4 (that portion within the Recreation Area)
- Sec. 5 (that portion within the Recreation Area)

A map of the area closed to camping is posted in the Carson City District Office.

Dated: April 22, 1992.

Karl L. Kipping,

Acting District Manager.

[FR Doc. 92-10161 Filed 4-30-92; 8:45 am]

BILLING CODE 4310-HC-M

[AZ-040-4212-13]

Realty Action for the Exchange of Public Lands, Case Number AZA 26565

AGENCY: Bureau of Land Management (BLM), Safford District, AZ., Interior.

ACTION: Notice of Realty Action for the Exchange of Public Lands in Pima and Pinal Counties, Arizona, Case Number AZA 26565.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 12 S., R. 11 E.,
- Sec. 28, NE¼NE¼;
- Sec. 33, W½W½SE¼NW¼.

T. 13 S., R. 11 E.,
- Sec. 5, S½NW¼SW¼NE¼, SW¼SW¼ NE¼, E½SE¼NW¼;
- Sec. 29, NE¼.

T. 13 S., R. 12 E.,
- Sec. 9, SE¼.
- Sec. 9, SE¼;
- Sec. 28, N½SE¼;
- Sec. 33, lot 1, S½NE¼, NE¼SE¼;
- Sec. 34, lots 1 and 2.

Containing 702.48 acres, more or less, in Pima County.

Gila and Salt River Meridian, Arizona

T. 6 S., R. 8 E.,
- Sec. 25, N½SW¼SW¼, S½SW¼SW¼, N½SE¼SW¼, S½SE¼SW¼ (within);
- Sec. 26, S½N½SE¼SE¼, S½SE¼SE¼;
- Sec. 36, E½.

T. 7 S., R. 10 E.,
- Sec. 5, W½SW¼, SE¼SW¼;
- Sec. 6, lots 2-7 incl., S½NE¼, SE¼NW¼, E½SW¼, SE¼;
- Sec. 7, lots 1-4 incl., NE¼, NE¼NW¼, E½SW¼;
- Sec. 8, W½E½, W½;
- Sec. 14, W½;
- Sec. 17, all;
- Sec. 18, lots 1-4 incl., E½W½, SE¼.

T. 10 S., R. 7 E.,
- Sec. 12, lots 9 and 10 and lots 15-23 incl.;
- Sec. 13, lots 1-24 incl., SW¼;
- Sec. 24, lots 5-8 incl., and lots 71-20 incl., NW¼, N½SW¼.

T. 10 S., R. 9 E.,
- Sec. 17, SW¼SE¼;
- Sec. 29, SW¼, W½SE¼;
- Sec. 30, lots 1-4 incl., E½, E½W½;
- Sec. 31, lots 1-4 incl., E½, E½W½;

Containing 7,042.41 acres, more or less, in Pinal County.

Total acreage proposed in exchange is 7,744.89 acres.

This action is in conformance with the current Phoenix District Resource Management Plan. Final determination on the disposal of the above 7,809.89 acres will await completion of an environmental assessment.

In accordance with the regulations at 43 CFR 2201.1(b), publication of this Notice will segregate the affected public lands and minerals from appropriation under the public land laws and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands, or upon publication in the Federal Register of a Notice of Termination of the segregation, or the expiration of two years from the date of publication, whichever occurs first.

DATES: Until June 15, 1992, interested parties may submit comments to the Safford District Manager, 425 E. 4th Street, Safford, AZ. 85546.

SUPPLEMENTARY INFORMATION: Additional information concerning this application may be obtained from the Safford District Office at the mailing address given above.

Dated: April 22, 1992.

Frank Rowley,

Acting District Manager.

[FR Doc. 92-10146 Filed 4-30-92; 8:45 am]

BILLING CODE 4310-32-M

[ID-943-02-4212-13; IDI-27581, IDI-28415]

Issuance of Land Exchange Conveyance Documents; ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private lands.

SUMMARY: The United States has issued two exchange conveyance documents as shown below under section 206 of the Federal Land Policy and Management Act.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho, (208) 384–3163.

1. In two exchanges made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following described lands have been conveyed from the United States:

Boise Meridian

IDI–27581 (conveyed to Ernest A. Bryant III)

T. 1 N., R. 15 E.,
Sec. 21, SW¼SW¼;
Sec. 28, NW¼NW¼.
T. 5 S., R. 17 E.,
Sec. 30, lot 4;
Sec. 31, lots 1 to 4, inclusive, S½NE¼, E½NW¼,NE¼SW¼, N½SE¼SW¼, N½SE¼, N½N½S½SE¼, and S½NW¼SW¼SE¼;
Sec. 32, S½N½, N½SW¼, N½N½SE¼, N½S½NW¼SE¼, and N½SW¼N E¼SE¼;
Sec. 33, SW¼NE¼, S½NW¼, N½NW¼S W¼, N½N½NE¼SW¼, S½NW¼N E¼SW¼, and N½N½NW¼SE¼.

IDI–28415 (conveyed to Keymor Land and Timber Co.)

T. 29 N., R. 3 E.,
Sec. 3, lot 3 and SE¼NW¼;
Sec. 6, SE¼SW¼;
Sec. 10, W½SE¼.

Comprising 1,308.44 acres of public lands.

2. In exchange for these lands, the United States acquired the following described lands:

Boise Meridian

(Acquired from Ernest A. Bryant III)

T. 2 S., R. 15 E.,
Sec. 14, NW¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 23, NE¼NE¼, W½E½, and E½W½.
(Acquired from Merle L. and Vera L. Herr through Keymore Land and Timber Co.)
T. 30 N., R. 1 W.,
Sec. 26, Mineral Survey 3393.
Comprising 658.80 acres of private land.

The purpose of the exchanges was to acquire non-Federal lands which have high public values for wildlife, recreation, and riparian habitat. The public interest was well served through completion of the exchanges. The values of the Federal and private lands in the Bryant exchange were appraised at $81,300 and $77,000, respectively. The Bureau of Land Management received an equalization payment to compensate for the difference in land value. The values of the Federal and private lands in the Keymor exchange were equal.

3. The lands described below have been and remain open to the general mining laws and operation of the mineral leasing laws:

Boise Meridian

T. 2 S., R. 15 E.,
Sec. 14, SW¼SE¼;
Sec. 23, NE¼NE¼, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼.Q02
Containing 320.00 acres.

4. The balance of the private lands reconveyed to the United States have been and will remain closed to the public land, mining, and mineral leasing laws.

Dated: April 22, 1992.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 92–10145 Filed 4–30–92; 8:45 am]

BILLING CODE 4310–GG–M

Fish and Wildlife Service

Availability of the Agency Draft Recovery Plan for Michaux's Sumac for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for Michaux's sumac (*Rhus michauxii*). This rare shrub grows on sandy or rocky soils in openings or thin woods in the piedmont and inner coastal plains of North Carolina, South Carolina, Georgia, and Florida. Only 21 populations of michaux's sumac are currently known to exist. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before June 30, 1992 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Nora Murdock at the above address (704/665–1195, Ext. 231).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, criteria for recognizing the recovery levels for downlisting or delisting them, and initial estimates of time and costs to implement the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The primary species considered in this draft recovery plan is Michaux's sumac (*Rhus michauxii*). The areas of emphasis for recovery actions are sandy or rocky open woods in the piedmont and inner coastal plains of North Carolina, South Carolina, Georgia, and Florida. Habitat protection, reintroduction, and preservation of genetic material are major objectives of this recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: April 22, 1992.

Brian P. Cole,

Field Supervisor.

[FR Doc. 92–10148 Filed 4–30–92; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[MT–070–02–4212–21; MTM68606]

Montana; Realty Action: Lease

April 24, 1992.

AGENCY: Bureau of Land Management, Butte District Office.

ACTION: Amendment of commercial lease to include additional public lands for expansion of a ski area in Lewis and Clark County, Montana.

SUMMARY: Great Divide Ski Area, Inc. has requested the use of the following described lands to accommodate expansion of the Great Divide Ski Area.

Principal Meridian, Montana

T. 11 N., R. 6 W.,
Sec. 2, Lots 1, 2, 3, 5, 6, 7 (Part), 9 (Part) and an unlotted parcel in the NW¼;
Sec. 3, Lots 1, 3 (Part).
T. 12 N., R. 6 W.,
Sec. 34, Portion Lot 14;
Sec. 35, Lots 22, 24 (Part), 25 (Part), 26, 27, 32, 34.

Comprising approximately 322 acres.

The lands are located on Mt. Belmont, approximately 15 air miles northwest of Helena. The amendment would be issued under section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976; 43 U.S.C. 1732, and would be issued noncompetitively to the above lessee. The term of this lease is through September 30, 2016. Fair market rental will be collected for these additional lands, as well as reasonable administrative and monitoring costs for processing the amendment. The amendment will be subject to the terms and conditions of the existing lease. Final determination on the lease of these additional lands will be made upon completion of an environmental assessment.

DATE: Interested parties may submit comments to the Headwaters Resource Area Manager, P.O. Box 3388, Butte, Montana 59702 until June 1, 1992.

FOR FURTHER INFORMATION CONTACT: Bob Rodman, 406–494–5059, at the above address.

Dated: April 24, 1992.

Merle Good,

Headwaters Area Manager.

[FR Doc. 92–10178 Filed 4–30–92; 8:45 am]

BILLING CODE 4310–DN–M

[AZ–942–02–4730–12]

Arizona State Office, Phoenix, AZ; Filing of Plats of Survey

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A supplemental plat showing amended lottings created by the cancellation of Mineral Survey 3606, Iron Blossom lode, and by the addition of M.S. 4643, T.Q. No. 1 lode, in section 24, Township 3 South, Range 13 East, Gila and Salt River Meridian, Arizona, was accepted February 21, 1992, and was officially filed February 26, 1992.

A supplemental plat showing amended lottings, in sections 14 and 15, Township 12 South, Range 8 East, Gila and Salt River Meridian, Arizona, was accepted February 10, 1992, and was officially filed February 18, 1992.

A plat representing the dependent resurvey of protions of the west boundary and subdivisional lines, and the subdivision of certain sections, in Township 20 South, Range 18 East, Gila and Salt River Meridian, Arizona, was accepted March 10, 1992, and was officially filed March 17, 1992.

A supplemental plat showing amended lottings created by the segregation of Mineral Survey Nos. 1204, 1205 A & B, 1208A and 4330, in section 32, Township 11 South, Range 8 East, Gila and Salt River Meridian, Arizona, was accepted March 23, 1992, and was officially filed March 23, 1992.

A supplemental plat (in 2 sheets) showing amended lottings created by the segregation of Mineral Survey Nos. 1208A, 1819, 1983, 1987, 1990, 2433, 2436, 2513, 2790, 2791, 2794, 2795 and 4329, in section 33, Township 11 South, Range 8 East, Gila and Salt River Meridian, Arizona, was accepted March 23, 1992, and was officially filed March 23, 1992.

A supplemental plat showing amended lottings 1983 and 4329, in section 34, Township 11 South, Range 8 East, Gila and Salt River Meridian, Arizona, was accepted March 23, 1992, and was officially filed March 23, 1992.

A supplemental plat (in 2 sheets) showing amended lottings created by the segregation of Mineral Survey Nos. 602, 1813, 1814, 1815, 1816, 1818, 1924, 1925, 1983, 1988, 2435, 2437, 2799, 3994, 4328 and 4330, in section 3, Township 12 South, Range 8 East, Gila and Salt River Meridian, Arizona, was accepted March 23, 1992, and was officially filed March 23, 1992.

A supplemental plat (in 2 sheets) showing amended lottings created by the segregation of Mineral Survey Nos. 1208A, 1813, 1814, 1817, 1818, 1819, 1820, 1821, 1924, 1925, 1926, 1927, 1928, 1983, 1987, 1989, 1990, 2002, 2432, 2436, 2437, 3994, 4329 and 4330, in section 4, Township 12 South, Range 8 East, Gila and Salt River Meridian, Arizona, was accepted March 23, 1992, and was officially filed March 23, 1992.

A supplemental plat showing amended lottings created by the segregation of Mineral Survey Nos. 1207, 1208 A & B, 1820 and 4330, in section 5, Township 12 South, Range 8 East, Gila and Salt River Meridian, Arizona, was accepted March 23, 1992, and was officially filed March 23, 1992.

A supplemental plat showing amended lottings created by the segregation of Mineral Survey Nos. 602, 603, 2799 and 3994, in section 10, Township 12 South, Range 8 East, Gila and Salt River Meridian, Arizona, was accepted March 23, 1992, and was officially filed March 23, 1992.

A supplemental plat showing amended lottings created by the segregation of Mineral Survey Nos. 1649, 3737 and 4496, in section 35, Township 16 South, Range 12 East, Gila and Salt River Meridian, Arizona, was accepted March 23, 1992, and was officially filed March 23, 1992.

A supplemental plat (in 2 sheets) showing amended lottings created by the segregation of Mineral Survey Nos. 411, 412, 415, 417, 1454, 1573, 1649, 1650, 1758, 3726, 3727, 3728 and 4295, in section 2, Township 17 South, Range 12 East, Gila and Salt River Meridian, Arizona, was accepted March 23, 1992, and was officially filed March 23, 1992.

These plats were prepared at the request of the Bureau of Land Management, Phoenix District Office.

A plat (in 2 sheets) representing the dependent resurvey of portions of the east boundary, and the subdivisional lines, and the subdivision of certain sections, and the survey of Tract 37, in Township 41 North, Range 7 West, Gila and Salt River Meridian, Arizona, was accepted February 18, 1992, and was officially filed February 26, 1992.

This plat was prepared at the request of the Bureau of Land Management, Arizona Strip District.

A supplemental plat showing amended lottings of original Tract 40 and lot 12, section 12, Township 7 North, Range 27 East, Gila and Salt River Meridian, Arizona, was accepted January 22, 1992, and was officially filed January 29, 1992.

This plat was prepared at the request of the Bureau of Land Management, Branch of Lands Operations.

A plat representing the dependent resurvey of a portion of the south boundary (Fifth Standard Parallel North), in Township 21 North, Range 14 West, Gila and Salt River Meridian, Arizona, was accepted March 3, 1992, and was officially filed March 11, 1992.

A plat representing the dependent resurvey of a portion of the west boundary, in Township 20 North, Range 14 West, Gila and Salt River Meridian, Arizona, was accepted March 3, 1992, and was officially filed March 11, 1992.

These plats were prepared at the request of the Bureau of Land Management, Kingman Resource Area.

A plat representing a survey of the south boundary, identical with the

Seventh Standard Parallel North, through Range 24 East, of Township 29 North, Range 24 East, Gila and Salt River Meridian, Arizona, was accepted March 4, 1992, and was officially filed March 12, 1992.

A plat representing a survey of the south boundary, identical with the Seventh Standard Parallel North, the west boundary, identical with the Sixth Guide Meridian East, the east and north boundaries, and the subdivisional lines, of Township 29 North, Range 25 East, Gila and Salt River Meridian, Arizona, was accepted March 4, 1992, and was officially filed March 12, 1992.

These plats were prepared at the request of the Bureau of Indian Affairs, Navajo Area Office.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

James P. Kelley,

Chief, Branch of Cadastral Survey.

[FR Doc. 92-10179 Filed 4-30-92; 8:45 am]

BILLING CODE 4310-32-M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 18, 1992. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by May 18, 1992.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Monroe County

Lick Skillet Railroad Work Station Historic District, Jct. of E. Cypress St. and New Orleans Ave., Brinkley, 92000558

Pulaski County

Cherry House (Pre-Depression Houses and Outbuildings of Edgemont in Park Hill MPS), 217 Dooley Rd., North Little Rock, 92000562

England, Joseph E. Jr., House (Pre-Depression Houses and Outbuildings of Edgemont in Park Hill MPS), 313 Skyline Dr., North Little Rock, 92000566

Jefferies House (Pre-Depression Houses and Outbuildings of Edgemont Park Hill MPS), 415 Skyline Dr., North Little Rock, 92000567

Kleiber House (Pre-Depression Houses and Outbuildings of Edgemont Park Hill MPS), 637 Skyline Dr., North Little Rock, 92000561

Matthews—Bradshaw House (Pre-Depression Houses and Outbuildings of Edgemont Park Hill MPS), 524 Skyline Dr., North Little Rock, 92000568

Matthews—Bryan House (Pre-Depression Houses and Outbuildings of Edgemont Park Hill MPS), 320 Dooley Rd., North Little Rock, 92000560

Matthews—Dillon House (Pre-Depression Houses and Outbuildings of Edgemont Park Hill MPS), 701 Skyline Dr., North Little Rock, 92000563

Matthews—Godt House (Pre-Depression Houses and Outbuildings of Edgemont Park Hill MPS), 248 Skyline Dr., North Little Rock, 92000565

Matthews—MacFadyen House (Pre-Depression Houses and Outbuildings of Edgemont Park Hill MPS), 206 Dooley Rd., North Little Rock, 92000569

Owings House (Pre-Depression Houses and Outbuildings of Edgemont Park Hill MPS), 563 Skyline Dr., North Little Rock 92000564

Young House (Pre-Depression Houses and Outbuildings of Edgemont Park Hill MPS), 436 Skyline Dr., North Little Rock, 92000559

ILLINOIS

Cook County

Root—Badger House, Address Restricted, Kenilworth, 92000550

NEW YORK

Cortland County

Peck Memorial Library, 28 E. Main St., Marathon, 92000557

New York County

Tenement Building at 97 Orchard Street, 97 Orchard St., New York, 92000556

Ontario County

Cobblestone Railroad Pumphouse (Cobblestone Architecture of New York State MPS), Main St., Victor, 92000551

Felt Cobblestone General Store (Cobblestone Architecture of New York State MPS), 6452 Victor—Manchester Rd., Victor, 92000553

First Baptist Church of Phelps (Cobblestone Architecture of New York State MPS), 40 Church St., Phelps, 92000554

Harmon Cobblestone Farmhouse and Cobblestone Smokehouse (Cobblestone Architecture of New York State MPS), 983 Smith Rd., Phelps, 92000552

Suffolk County

Terry—Ketcham Inn, 81 Main St., Center Moriches, 92000555.

[FR Doc. 92-10048 Filed 4-30-92; 8:45 am]

BILLING CODE 4310-20-M

INTERSTATE COMMERCE COMMISSION

Intent of Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Questar Corporation, 180 East First South, P.O. Box 11150, Salt Lake City, UT 84147.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Questar Pipeline Company, Utah.

(ii) Wexpro Company, Utah.

(iii) Celsius Energy Company, Nevada.

(iv) Mountain Fuel Supply Company, Utah.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-10208 Filed 4-30-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32059]

Burlington Northern Railroad Company—Trackage Rights Exemption—Terminal Railway Alabama State Docks

Terminal Railway Alabama State Docks has agreed to grant approximately 17,674 feet of overhead trackage rights to Burlington Northern Railroad Company in Mobile, AL. The exemption became effective on April 20, 1992.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Michael E. Roper, Burlington Northern Railroad Company, 3800 Continental Plaza, Fort Worth, TX 76102.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: April 27, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-10209 Filed 4-30-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32061]

The Indiana & Ohio Central Railroad, Inc.; Modified Rail Certificate

On April 14, 1992, the Indiana & Ohio Central Railroad, Inc. (IOC), filed a notice for a modified certificate of public convenience and necessity under 49 CFR part 1150, subpart C, to operate over a 18.4-mile line of rail between milepost 221.1 near Jeffersonville, OH and milepost 202.70, near Springfield, OH.

In AB-31 (Sub-No. 29), The Grand Trunk Western Railroad Company—Abandonment—In Clark, Madison, and Fayette Counties, OH (not printed), served March 7, 1990, the Commission authorized Grant Trunk Western Railroad (GTW) to abandon a 27.13 mile of line known as the Springfield Subdivision. The Clark County—Fayette County Port Authority (CFPA) subsequently acquired the abandoned line from GTW. This transaction was executed in two stages. CFPA took immediate possession of the first segment of line between milepost 221.10 and milepost 229.83 at the closing and later assumed possession of the remaining line between milepost 221.10 and 202.70. IOC was authorized to operate over the first segment pursuant to a Modified Rail Certificate, issued October 23, 1990, in Finance Docket No. 31743, *The Indiana & Ohio Central Railroad, Inc.—Modified Rail Certificate.*

IOC now wants to operate over the second (18.4 mile) segment and intends to commence operations on or about May 1, 1992.

IOC has entered into a 100-year renewable agreement with CFPA to operate the line. IOC will connect and interchange traffic with Conrail and GTW at Springfield, OH.

The Commission will serve a copy of this notice on the Association of American Railroads (Car Service Division), as agent of all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Dated: April 27, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland,

Secretary.

[FR Doc. 92-10210 Filed 4-30-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Bridgeway Trading Corp.; Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedules I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 3, 1992, Bridgeway Trading Corporation, 7401 Metro Blvd., suite 480, Minneapolis, Minnesota 55439, made application to the Drug Enforcement Administration to be registered as an importer of marihuana (7360) a basic class of controlled substance in Schedule I. This application is exclusively for the importation of marijuana seed which will be rendered non-viable and used as bird seed.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 1, 1992.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedules I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e) and (f) are satisfied.

Dated: April 27, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-10185 Filed 4-30-92; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 91-29]

Chin-Lin Cheng, M.D.; Continuation of Registration

On July 17, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Chin-Lin Cheng, M.D. (Respondent), of 42 Euclid Avenue, Bristol, Virginia 24201. The Order to Show Cause alleged that Respondent's continued registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

Respondent, through counsel, requested a hearing on the matters raised in the Order to Show Cause. Following prehearing procedures, a hearing was held in Roanoke, Virginia on November 21, 1991. On February 20, 1992, Administrative Law Judge Paul A. Tenney issued his opinion, recommended ruling, findings of fact, conclusions of law and decision. No exceptions were filed to Judge Tenney's opinion and recommended ruling and on March 23, 1992, Judge Tenney transmitted the record in this proceeding to the Administrator. Having considered the record in its entirety, and pursuant to 21 CFR 1316.67, the Administrator hereby issues his final order in this matter based upon the findings of fact and conclusions of law set forth below.

After graduating from medical college in Taiwan, Republic of China, Respondent practiced internal medicine in that country for several years. Respondent then emigrated to the United States and commenced a rotating internship at the Catholic Medical Center of Brooklyn and Queens in New York City. From July 1973 to June 1975, Respondent was a resident in pathology at the Harlem Hospital Center. Following this residency, Respondent

relocated to Wise County, Virginia, where he joined a group practice and worked in the group's emergency room. In 1985, Respondent opened up his own practice at 42 Euclid Avenue in Bristol.

It was at this point in Respondent's career that allegations relating to his prescribing of controlled substances arose. A local law enforcement detective notified an investigator with the Virginia Department of Health Professionals, Board of Medicine (Board), that he had heard through "street talk" that Respondent was seeing as patients numerous drug abusers. A local pharmacist also contacted the investigator to report that Respondent was writing prescriptions for large amounts of Schedule II controlled substances and had attempted to order refills of Schedule II controlled substances.

Based on these allegations, the Board initiated an investigation of Respondent's prescribing practices. The investigator contacted pharmacies in the Bristol area and ultimately identified twenty-one patients of Respondent who had been prescribed a total of sixty-five prescriptions for Schedule II controlled substances. After an undercover buy from Respondent was unsuccessful, the investigator met with Respondent to discuss the twenty-one patients and their prescriptions. Respondent was cooperative during this meeting and throughout the entire investigation.

Following the investigation, Respondent appeared before the Board for an informal conference, at which time Respondent and the Board entered into a Consent Order. Pursuant to the Consent Order, dated June 4, 1987, Respondent's medical license was placed on indefinite probation and Respondent was prohibited from prescribing controlled substances. The Consent Order also required that a Medical Practices Audit Committee (MPAC) review Respondent's patient records. The audit, conducted in November 1987, randomly sected 30 patient files for review. MPAC ultimately concluded that "overall the quality of care given by [Respondent] * * * was within acceptable limits."

Respondent later petitioned the Board, which, on March 29, 1989, after reviewing the MPAC report, reinstated Respondent's prescribing privileges for Schedules II, III, and IV subject to certain restrictions. A year later, in June 1990, the Board terminated Respondent's probation. Since the allegations of irresponsible prescribing practices that were the basis of the Board's action, there has been no evidence that Respondent has failed to act competently and in conformance with the Controlled Substances Act.

The administrative law judge addressed two major issues. First, the administrative law judge examined whether Respondent had exhibited irresponsible behavior by supplying known drug abusers with controlled substances. Second, the administrative law judge examined the evidence indicating that Respondent had overprescribed controlled substances and had prescribed controlled substances to patients for no legitimate medical purpose.

With respect to the first issue, although counsel for the Government maintained that Respondent prescribed controlled substances to known drug abusers, the administrative law judge refined the issue to examine whether Respondent prescribed controlled substances to individuals that the Respondent himself knew to be drug abusers. In answer to this inquiry, the administrative law judge concluded that the record did not support the conclusion that Respondent knew the individuals to be drug abusers.

The administrative law judge then addressed the issue of Respondent's alleged prescribing of controlled substances to patients in the absence of legitimate medical purpose. Evidence was presented at the hearing that Respondent had indeed over-prescribed controlled substances; Respondent himself admitted to this fact. The administrative law judge concluded, therefore, that Respondent had violated the Controlled Substances Act by engaging in this behavior.

The administrative law judge, however, noted that the case did not end with this clear violation of the Controlled Substances Act. Citing 21 U.S.C 823(f)(1), which provides that in determining the public interest, consideration must be given to "the recommendation of the appropriate State licensing board or professional disciplinary authority," the administrative law judge found that the Government had given insufficient consideration to Respondent's conduct since 1987, the year of the Board's actions. The administrative law judge found that Respondent's behavior since the Board's probation of Respondent's medical license and suspension of his prescribing privileges was of critical importance. Significantly, the Board itself demonstrated its satisfaction with Respondent's conduct when, in 1989, it reinstated Respondent's prescribing privileges and one year later terminated Respondent's probation.

In determining the public interest under the other factors set forth in 21 U.S.C. 823(f), specifically 823(f)(2), the administrative law judge noted that since 1987, there has been no evidence that Respondent has failed to adhere to the requirements of the Controlled Substances Act. The administrative law judge found credible Respondent's explanation that his overprescribing tendencies stemmed from his change from an emergency room practitioner to a private practitioner. The administrative law judge also found favorable Respondent's participation in continuing medical education and his increased awareness of the drug problem in our society. Furthermore, the administrative law judge was encouraged by Respondent's voluntary abstinence from prescribing controlled substances pending the outcome of the proceedings.

The administrative law judge concluded that, while Respondent had clearly violated the Controlled Substances Act prior to 1987, his successful completion of his Board ordered probation and conduct since 1987 indicate that Respondent's registration would not be inconsistent with the public interest. The administrative law judge therefore recommended that Respondent be permitted to keep his current DEA Certificate of Registration, BC2781436.

The Administrator adopts the recommended ruling, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, BC2781436, issued to Chin-Lin Cheng, M.D., continue unrestricted. This order is effective May 1, 1992.

Dated: April 24, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-10174 Filed 4-30-92; 8:45 am]

BILLING CODE 4410-09-M

Drug Enforcement Administration Mallinckrodt Specialty, Chemicals Co.; Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to

issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 27, 1992, Mallinckrodt Specialty, Chemicals Company, Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Opium, Raw (9600)	II
Opium Poppy (9650)	II
Poppy Straw Concentrate (9670)	II

Any manufacturer holding, or applying for, registration as a manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 1, 1992.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: April 27, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-10184 Filed 4-30-92; 8:45 am]

BILLING CODE 4410-09-M

Minn-Dak Growers Ltd.; Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedules I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 16, 1991, Minn-Dak Growers Limited, Highway 81 North, P.O. Box 1276, Grand Forks, North Dakota 58206–1276, made application to the Drug Enforcement Administration to be registered as an importer of marijuana (7360) a basic class of controlled substance in Schedule I. This application is exclusively for the importation of marijuana seed which will be rendered non-viable and used as bird seed.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 1, 1992.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedules I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: April 27, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-10186 Filed 4-30-92; 8:45 am]

BILLING CODE 4410-09-M

Penick Corp.; Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 24, 1992, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Phenylacetone (8501)	II
Coca Leaves (9040)	II
Opium, Raw (9600)	II
Opium Poppy (9650)	II
Poppy Straw Concentrate (9670)	II

Any manufacturer holding, or applying for, registration as an importer of this basic class of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 1, 1992.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e) and (f). As noted

in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e) and (f) are satisfied.

Dated: April 27, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92–10183 Filed 4–30–92; 8:45 am]

BILLING CODE 4410–09–M

Stepan Chemical Co.; Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 12, 1992, Stepan Chemical Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Cocaine (9041)	II
Ecgonine (9180)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 1, 1992.

Dated: April 27, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92–10182 Filed 4–30–92; 8:45 am]

BILLING CODE 4410–09–M

Stepan Chemical Co.; Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedules I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 12, 1992, Stepan Chemical Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of coca leaves (9040) a basic class of controlled substance in schedule II.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedules I or II are and will continue to be required to demonstrate to the Deputy Assistant Administration of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e) and (f) are satisfied.

Dated: April 27, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92–10187 Filed 4–30–92; 8:45 am]

BILLING CODE 4410–09–M

UpJohn Co.; Manufacturer of Controlled Substances; Registration

By Notice dated March 5, 1992, and published in the **Federal Register** on March 16, 1992 (57 FR 9139), UpJohn Company, 7171 Portage Road, Kalamazoo, Michigan 49001, made application to the Drug Enforcement Admnistration to be registered as a bulk manufacturer of 2,5-Dimethoxyamphetamine (7396), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of a basic class of controlled substance listed above is granted.

Dated: April 27, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92–10181 Filed 4–30–92; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental

Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/-reporting requirement.

The OMB and/or Agency identification number, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ((292) 523–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 ((202) 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

New

Departmental Management—Women's Bureau

The Influence of Formal and Informal Mentors on Women in traditional and Nontraditional Occupations
One-time collection
Individuals or households
1,584 respondents; 792 total burden hours
30 minutes per response

This project will investigate the impact of formal and informal mentors on work-related outcomes of men and women in female-dominated, male dominated and gender-integrated occupations. The sample comes from mailing lists of occupational associations. The Women's Bureau can use this information to promote policies and programs ant assist women's advancement in organizations.

Extension

Employment and Training Administration

JSAR Annual Status Report
1205–0211
ETA 8580
Annually
State or local governments
1 form
57 respondents; 366,168 total hours
6,424 hours per response
JTPA Reporting is necessary for the Secretary to carry out responsibilities specific at Sections 106,165 and 169 of JTPA

Job Training for the Homeless Demonstration Program
1205–0299
ETA 9028
Quarterly
State or local governments; Non-profit institutions
21 respondents; 840 total hours; 10 hrs. per response
1 form

The information provided by this collection from grantees will permit DOL to meet Federal responsibilities for program administration, management and oversight; respond to public and Congressional inquiries; and insure that we have statutorily-required information.

Targeted Jobs Tax Credit (TJTC) Program Report Forms
1205–0058
ETA 8471, 8472, 8473 and 8588

Form No.	Affected public	Respondents	Frequency	Average time per response
ETA8471	State or local governments, Business or other for-profit, Federal agencies or employees, Non-profit institutions Small businesses or organizations.	52	Quarterly	8 hours.
ETA8472		52	Quarterly	8 hours.
ETA8473		52	Quarterly	7 hours.
ETA8588		52	Quarterly	8 hours.
Recordkeeping		52	Annually	997 hours.
58,292 total hours				

Data provided by the States on these forms are used for program planning and evaluation and for oversight or verification activities as mandated by the Tax Equity & Fiscal Responsibility Act of 1982, the Deficit Reduction Act of 1984, the Tax Reform Act of 1986, the Technical and Miscellaneous Revenue Act of 1988, and Omnibus Budget Reconciliation Act of 1990.

Signed at Washington D.C. this 24th day of April, 1992.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 92–10027 Filed 4–30–92; 8:45 am]

BILLING CODE 4510–30–M

Survey of Users of Occupational Information

AGENCY: Office of the Secretary, Labor.

ACTION: Expedited review under the Paperwork Reduction Act (PRA) of 1980, as amended.

SUMMARY: The Employment and Training Administration (ETA), Department of Labor (DOL), in carrying out its responsibilities under the PRA (44 U.S.C. chapter 35, 5 CFR part 1320 (53 FR 16618, May 10, 1988) of 1980, as amended, is submitting a survey to be conducted by a private contractor of users of the Dictionary of Occupational Titles (DOT). The information will permit the DOL to revise the DOT.

DATES: ETA has requested an expedited review of this submission under the PRA; this Office of Management and Budget (OMB) review has been requested to be completed by May 22, 1992.

FOR FURTHER INFORMATION CONTACT: Comments and questions regarding the Survey of Users of Occupational Information should be directed to Kenneth A. Mills, Departmental Clearance Officer, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210 ((202) 523–5095).

Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA (Dan Chenok), Office of Management and Budget, room 3001, Washington, DC 20503 ((202) 395-7316).

Any member of the public who wants to comment on the information collection clearance package which has been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Average Burden Hours/Minutes Per Response: 25 minutes.

Frequency of Response: One-time.

Number of Respondents: 2,000.

Annual Burden Hours: 833.

Affected Public: State or local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations.

Respondents Obligation to Reply: Voluntary.

Signed at Washington, DC this 24th day of April 1992.

Kenneth A. Mills,

Departmental Clearance Officer.

SF-83-OMB Supporting Statement for Request for OMB Approval

A. Justification

1. The 1982 Job Training Partnership Act (JTPA Section 462(b) Public Law 97-300) provides a mandate for maintenance of descriptions of job duties, training and education requirements, working conditions and characteristics of occupations. The Department of Labor maintains this information in the Dictionary of Occupational Titles (DOT). Users of the DOT have advised the Department that the DOT is out of date with the current labor market and are anxious for a revision. To ensure that the DOT becomes an effective tool for meeting workforce challenges, the Secretary of Labor established the DOT Review as a Secretarial Initiative, seated an advisory panel, commissioned research and proposed a user survey. For the past 18 months, the DOL through the advisory panel has focused on complex issues at the center of the Department's agenda for economic competitiveness. Along with the work of the Secretary's Commission on Achieving Necessary Skills and the National Advisory Commission on Work-Based Learning, the work of the DOT Review is a key element in the Department's strategy for meeting President Bush's AMERICA 2000 goal of literacy for every adult American.

To be responsive to users, the Department wants to survey users to determine their needs for occupational information, in general, and specifically how the current DOT could be improved. This request is a revision of OMB No. 1205-0312, approved in November 1991.

2. The Employment and Training Administration, U.S. Employment Service will be using the information to revise the DOT. The survey has been developed to answer a series of research questions. An analysis of the responses will be made. If the information is not collected the Department cannot be sure that the revision will meet users' needs.

3. A revised DOT will improve information technology by reducing the burden to public and private entities because they now either purchase or develop alternative systems to replace or supplement the current DOT.

4. There is no other study planned or being conducted regarding the DOT.

5. The DOT is the only resource document of this kind and the DOL is the only agency responsible for the DOT. There is no current information available. Previous studies on the DOT were evaluative in nature and focused on assessing the DOT and developing recommendations for improvements. The current study is designed to result in a revised DOT and will include topics not examined previously.

6. The data collection may include small business respondents. The data collection plan is designed to minimize the response burden on small business respondents: One-time data collection, only one individual from each firm will be surveyed, survey response time is 25 minutes. In addition, a revision of the DOT will assist small businesses engaged in activities using the DOT to improve their products and/or services.

7. This survey will be a one time data collection effort.

8. DOL knows of no circumstances that would require the data collection to be inconsistent with existing Federal guidelines contained in 5 CFR 1320.6.

9. Consultation was conducted with several groups in 1991 representing a broad range of occupational information users-education, employment security, workers compensation. Also consulted were various experts in occupational classification, psychology and survey research:

Specific consultation in 1992 included:

Advisory Panel for the Dictionary of Occupational Titles
Dixie Sommers, Chair, 614-644-4951
National Occupational Information Coordinating Committee
James Woods, 202-653-5665
Social Security Administration
Jesse Cannon, 301-965-9144
Joseph Murphy, 301-965-9144

10. The following steps have been developed to assure confidentiality for respondents:

- Access to data will be restricted to contractor and agency staff whose specific responsibilities require access.
- Survey data will be made available only in aggregate form.
- Contractor staff will be subject to a written confidentiality pledge.
- Contractor will be required to maintain locked or entry-restricted data handling and storage facilities.

11. No questions commonly understood to be of a sensitive nature i.e. pertaining to religious, sexual or other private attitudes, behavior or beliefs) are included.

12. Total cost to the Federal Government is estimated at $165,250 ($155,250 for contractor services: Labor $51,800; computing, copying telephone postage etc. $30,400; Overhead etc. $73,050) and $10,000 for direct federal labor costs. Contractor costs are based on experience with survey administration.

13. Estimate of the burden for the survey is: 2,500 surveys mailed with an estimated 80% response rate (2,000). 2,000 × 25 minutes per response = 833 burden hours. (80% response rate is based on use of postcard and telephone reminders to respondents.) Survey universe is described in Section B.

14. Upon approval of the previously approved DOT survey, ETA did not anticipate streamlining of those requirements. Therefore, ETA is requesting a separate number for this revised/streamlined version.

15. The results will not be published for statistical purposes. However, the results will be used by the Advisory Panel for the Dictionary of Occupational Titles to prepare its report to ETA with the recommendations for revising the DOT.

B. Collection of Information Employing Statistical Methods

1. The objective of the survey is to obtain input from persons who, in their profession, make direct use of the DOT. The ETA is particularly interested in the opinions and practices of those who are frequent or regular users of the DOT. The DOT is a resource document sold by the Government Printing Office and other organizations in a print version and an electronic version. In addition, some government users of the DOT obtain new releases through ETA and either have copies made or purchase additional copies from either public or private vendors. Some users obtain the DOT through incorporation of the DOT into computer software programs sold or distributed through either public or private organizations and companies and are not necessarily aware that they are using the DOT. A list of all sellers of the DOT is not available. A "census" or formal enumeration of users would require extensive burden on DOL, and public and private respondents. Thus, a practical or reliable universe of users does not exist.

During the course of the DOT Review, DOL has become knowledgeable, in general, about its users and has been able to identify ten categories of DOT usage. These usage categories are:

- Career and vocational counseling;
- Vocational rehabilitation counseling;
- Disability determination;
- Curriculum development;
- Alien certification;
- Employment placement;
- Human resource management;
- Labor market information;
- Occupational information development and dissemination; and
- Research.

The study design and analysis plan for this user survey are based on these ten categories. The objective of the current design is to obtain a sufficient and reasonable number of responses within each usage category so that each group will feel confident that the needs within their field of work are adequately considered in designing the revised DOT. The approach to the sampling plan is to use a purposeful or

"controlled sample" design rather than a statistical sample. The target will be to survey 2,500 DOT users.

The sample will be selected from three sources: 1. Lists of DOT purchasers (print and electronic) from three sources—Government Printing Office (GPO) U.S. Department of Commerce, National Technical Information Service (NTIS), and National Crosswalk Service Center (NCSA), 2. users whom we understand obtain their DOTs from sources other those in number one, and 3. lists of users who have expressed an interest in the DOT Review and employers, a group that we understand may not find the current DOT useful.

2. A survey mailout list totalling 2,500 will be selected as follows:

- DOT purchasers—1,600.
- Users who purchase from other than GPO, NTIS, NCSC (local Employment Service Offices, local Jobs Training Partnership Act [JTPA Delivery Agents], list of National Organizations, Employers National Job Service Committee—600.
- Interested Parties (Individuals and/or organizations who have expressed interest in the DOT Review by responding to Federal Register Notices, correspondence, telephone contacts, referrals)—300.

Approximately 10 Federal agencies will be among "DOT Purchasers" and "Interested Parties."

All lists will be automated, and checks for duplicates will be made both within and among all lists before initiating the survey. Potential respondents will not be included in the survey more than once. If the de-duplicating reduces the total "sample size" substantially below 2,500 additional GPO purchasers will be randomly selected for inclusion in the survey to reach the targeted 2,500 "sample size."

Because of the purposeful construction of the mail survey "sample," responses will not be weighted for purposes of analysis. The analysis will clearly state that the survey results are not weighted, but are a compilation of opinions rather than a statistical analysis.

The mail survey will use a series of procedures designed to ensure a response rate of at least 80 percent by 30 days after mailing. All addressees will receive a cover letter from the Department stating the importance and purpose of the survey. However, the DOL letter alone will not provide sufficient guidance to many organizations regarding the appropriate "internal" routing of the survey. All addressees will receive an additional letter from the contractor asking the recipient for their assistance in forwarding the survey to a person (e.g. counselor, interviewer, etc.) in the organization who is a frequent user of occupational information. (Sample letter attached)

Analysis Plan

The analysis of the survey data will be organized around six basic issues and their component sub-issues. Estimates will be produced for the total user population as well as by primary use of the DOT (Q.12) and, where appropriate, by type of employer (Q.2) and by type of work done by the user (Q.1, Q.3).

The analysis plan is summarized below by indicating the specific questions in the survey instrument that will form the basis of the analysis for each key issue. In addition, where appropriate, the discussion of each issue will incorporate insights gleaned from the respondents' views with respect to possible changes in specific features of the DOT (Q.20–25 and their responses to the open-ended question that requests additional comments about the current or future DOT (Q.29).

The analysis will not specifically address survey questions 26 and 27 concerning the respondents purchasing practices for DOT documents. These items are included in the survey at the request of GPO, and simple tallies or a small database containing these responses will be made available to GPO. Further, Q.29, regarding time spent in completing the survey will be used only for pre-test purposes and will not be included in the actual survey.

Issue 1. What should be the purpose of the DOT? Questions 1, 4, 7–9, 11–12.

Issue 2. What amount and kind of information should the DOT contain?

What kind of information is needed about skills? Questions 5 and 15, 16–18.

What kind of other information is needed? Questions 5, 6, 15, 18, 29.

What information can be learned from looking at how users use the skills information in the current DOT as well as what they say they want in a revised DOT? Questions 12, 13, 15, 16–18, 21–25.

Issue 3. What is the best way to organize the occupational information into a new DOT?

Is there a method of organizing the data which will satisfy the majority of DOT users? Question 21.

Which is best—general or specific information? Questions 14, 15, 21–25.

Issue 4. What kind of requirements do users have regarding publishing and disseminating a DOT? Questions 19, 20.

Issue 5. How close does the current DOT information come to furnishing user needs? Questions 9, 11, 13–17, 21, 22, 24.

Issue 6. What are the world of work issues that are relevant to the DOT, i.e. team skills, job sharing etc.? Questions 5, 29.

3. Beginning two weeks after the initial mailout of the survey, nonrespondents will be mailed a postcard reminding them to complete and return the survey. Those who do not respond at all to the postcard will continue to be included in subsequent followup efforts as described below.

Two weeks after the postcard prompt, telephone followup will begin 4 weeks after the original mailout and will continue at two-week intervals. A maximum of three telephone contacts will be made with each potential respondent.

Data collection and followup will continue for two months after initial mailout. At the end of the two-month followup period, two weeks will be allowed for the receipt of additional responses before closing out the database.

4. A pretest of 5 respondents validates the estimated burden time of 25 minutes for reading cover letter, reviewing instructions, completing, and mailing the survey.

5. The study will be conducted by Westat 1650 Research Blvd Rockville, MD 20850; Contact Person: Lucy Gray (301) 251–4345. The DOL–ETA contact is Donna Dye (202) 535–0161.

BILLING CODE 4510-30-M

AN INVITATION TO PARTICIPATE IN A U.S. DEPARTMENT OF LABOR SURVEY OF USERS OF THE DICTIONARY OF OCCUPATIONAL TITLES

WHAT IS THIS ABOUT?

The U.S. Department of Labor is undertaking a user survey to determine what kinds of occupational information are needed, and how this information should be presented in a future version of the Dictionary of Occupational Titles (DOT). Occupational information is data about workers, work, and the workplace presented at the occupational level. If occupational information is of no significance in the performance of your professional duties, please pass this survey on to the professional in your organization who uses occupational information most frequently. If you do not use occupational information and no one in your organization uses such information, please answer Questions 1-9 and return the questionnaire in the stamped, pre-addressed envelope provided.

WHY ME?

You have been selected to participate in this survey based on your professional role in serving the American work force. Your opinions will be of great assistance in developing the specifications for a system of occupational information to meet the needs of the 1990's and beyond. As a professional in this field, you can provide special insight into problems and make informed recommendations based on your use of occupational information.

HOW LONG WILL THIS TAKE?

This questionnaire will take approximately 20 minutes to complete. If you have any comments regarding this estimate or any other aspects of the survey, including suggestions for reducing the time needed to respond, send them to: Office of Information Management, Department of Labor, Room N1301, 200 Constitution Avenue, N.W., Washington, D.C. 20210; and the Office of Management and Budget, Paperwork Reduction Project (1205-0000), Washington, D.C. 20503.

Please be assured that the information you provide is confidential and protected under the provisions of the Privacy Act of 1974. This means that the results of the study will be reported only in summary form so that your individual identity will not be revealed.

SURVEY OF USERS OF THE DICTIONARY OF OCCUPATIONAL TITLES

PLEASE READ INSTRUCTIONS BEFORE YOU START

Read each question carefully. You will be asked to: circle only **ONE** response; circle **ALL** responses that may apply; or in some cases, you will be asked to **SKIP** certain questions. **FOR EXAMPLE:**

What is your favorite color? **Please circle only ONE response.**

Red	①
White	2
Blue	3
None of the above	4

ANSWER all questions **IN TERMS OF YOUR CURRENT POSITION** and **NOT** from the perspective of your organization's occupational information needs and uses.

After completing the questionnaire, please use the enclosed addressed, stamped envelope to return it to:

Westat, Inc.
1650 Research Blvd.
Rockville, Maryland 20850

USER EXPERIENCE

1. What job title best describes your current position?

_____

_____

2 The following list includes typical categories of employers. **Please circle the ONE answer that most closely fits your employer.**

Employer Category

Library	01
High School, Junior High	02
Technical, vocational, or trade school	03
College or university	04
Federal government	05
State government-Employment Service (ES)	06
State government, non-ES	07
County/local government	08
Labor union	09
Private non-profit organization/community group (please specify) _____	10
Private, for-profit business employing less than 100 workers	11
Private, for-profit business employing between 100 and 499 workers	12
Private, for-profit business employing 500 or more workers	13
Self-employed	14
Not presently employed	15
Other (please specify) _____	16

3 Which of the following best describes the type of work that you do? **Please circle only ONE response.**

Career and vocational counseling	01
Vocational rehabilitation counseling	02
Disability determination	03
Curriculum development	04
Alien certification	05
Employment placement	06
Human resource management (recruitment, compensation, training, job analysis, test development, etc.)	07
Labor market information (analysis and presentation of data on labor supply, demand, etc.)	08
Occupational information development and dissemination	09
Research	10
Other (please specify) _____	11

4. How important is occupational information in performing your work? **Please circle only ONE response.**

Very important	1	[GO TO Q. 5]
Moderately important	2	[GO TO Q. 5]
Minimally important	3	[GO TO Q. 5]
Never important	4	[GO TO Q. 7]

OCCUPATIONAL INFORMATION NEEDS

5. Listed below are various types of information related to the requirements, prerequisites, content, and working environment of occupations. How important is each in your work? **Please circle ONE response for EACH LINE.**

1 = Never Important
2 = Minimally Important
3 = Moderately Important
4 = Very Important

Personal requirements for occupations

a. Aptitudes (verbal, numerical, spatial perception, psychomotor, etc.)..... 1 2 3 4

b. Temperament and other personal qualities (responsibility, self-esteem, sociability, etc.) 1 2 3 4

c. Interest patterns (artistic, mechanical, etc.)..... 1 2 3 4

Intellectual requirements for occupations

d. Basic skills (reading, writing, mathematics, speaking, etc.) 1 2 3 4

e. Thinking skills (creative thinking, problem solving, etc.) 1 2 3 4

f. Formal education (years of school, diploma, degree, etc.) 1 2 3 4

g. Training (formal, on-the-job, apprenticeship, etc.) 1 2 3 4

h. Work experience..... 1 2 3 4

i. Occupation-specific skills (pipe welding, word processing, etc.) 1 2 3 4

j. Licenses, certification 1 2 3 4

Content of occupations

k. Duties/tasks performed..... 1 2 3 4

l. Machines, equipment used 1 2 3 4

m. Materials used..... 1 2 3 4

n. Products produced..... 1 2 3 4

o. Services provided..... 1 2 3 4

p. Performance standards (work speeds, tolerances, etc.) 1 2 3 4

q. Physical requirements 1 2 3 4

r. Career progression, paths.. 1 2 3 4

Occupational environment

s. Industries in which occupation is found..... 1 2 3 4

t. Working conditions, physical environment..... 1 2 3 4

u. Type of workplace organizations (work teams, assembly line, etc.) 1 2 3 4

Other (please list and rate)

v. _____ 1 2 3 4

w. _____ 1 2 3 4

x. _____ 1 2 3 4

6. In your work, how important is it to be able to link labor market information, such as employment and wage data collected by the Bureau of Labor Statistics and the Census Bureau, with occupational information? **Please circle only ONE response.**

Very important	1
Moderately important	2
Minimally important	3
Never important	4

DOT FAMILIARITY

7. Before receiving this questionnaire, were you aware of the Dictionary of Occupational Titles (DOT)? **Please circle only ONE response.**

Yes	1 [GO TO Q. 8]
No	2 [GO TO Q. 28]

8. During the past year, did you ever use ANY of the following DOT documents?

DOT (any edition)
Supplement to the DOT
Selected Characteristics of Occupations defined in the DOT
DOT master data tape

Please circle only ONE response.

Yes	1 **[GO TO Q. 10]**
No	2 [GO TO Q. 9]

9 Which of the following best describes your reason(s) for NOT using DOT documents? **Please circle ALL that apply.**

Not needed in my work	1 [GO TO Q. 28]
Too difficult to use	2 [GO TO Q. 28]
Lack of confidence in accuracy of the data	3 [GO TO Q. 28]
Lack of confidence in timeliness of the data	4 [GO TO Q. 28]
Other (please specify) _____	5 [GO TO Q. 28]

DOT USAGE

10. How often have you used the following DOT documents within the past year? **Please circle ONE response for EACH LINE.**

DOT Documents	Daily	Weekly	Monthly	Infrequently	Never
a. 1991 Fourth Edition, revised DOT	1	2	3	4	5
b. 1986 Fourth Edition Supplement to the DOT	1	2	3	4	5
c. 1977 Fourth Edition DOT	1	2	3	4	5
d. Earlier editions of the DOT	1	2	3	4	5
e. DOT master data tape	1	2	3	4	5
f. Selected Characteristics of Occupations defined in the DOT	1	2	3	4	5
g. DOT Guide for Occupational Exploration	1	2	3	4	5
h. Extracts of DOT information (e.g., lists of most frequently used DOT codes)	1	2	3	4	5

11 If the DOT were discontinued, how would your current work be affected? **Please circle only ONE response.**

Would not be affected 1
Would cause inconvenience 2
Would seriously disrupt work 3
Could not do work 4

12 What is your PRIMARY use of the DOT? **Please circle only ONE response.**

Career and vocational counseling 01
Vocational rehabilitation counseling 02
Disability determination 03
Curriculum development 04
Alien certification 05
Employment placement 06
Human resource management (recruitment, compensation, training, job analysis, test development, etc.) 07
Labor market information (analysis and presentation of data on labor supply, demand, etc.) 08
Occupational information development and dissemination 09
Research 10
Other (please specify) _____ 11

The following is a sample DOT occupational definition. Please refer to this example when answering Question 13.

a) Occupational Code | b) Occupational Title | c) Industry Designation

652.382-010 CLOTH PRINTER (any industry) alternate titles: printer; printing-machine operator — d) Alternate Titles

Sets up and operates machine to print designs on materials, such as cloth, fiberglass, plastic sheeting, coated felt, or oilcloth. Turns handwheel to set pressure on *printing rollers*, according to specifications. Turns screws to align register marks on printing rollers with register marks on machine, using allen wrench. Sharpens doctor blade, using file and oilstone, and verifies evenness of blade, using straightedge. Aligns doctor blade against printing roller, using handtools. Dips color from tubs into color boxes to supply printing rollers. Scans cloth leaving machine for printing defects, such as smudges, variations in color shades, and designs that are out of register (alignment). Realigns printing rollers and adjusts position of blanket or back gray cloth to absorb excess color from printing rollers. Records yardage of cloth printed. Coordinates printing activities with activities of workers who feed and doff machine and aid in setting up and cleaning machine. May certify COLORIST (profess. & kin.) 022.161-014 when color shade varies from specifications. May mix own colors. May mount printing rollers on machine for change of patterns. [PRINTING-ROLLER HANDLER (textile) 652.385-010]. May position knives specified distance from edge of plastic material to trim excess material from edges. When printing samples of new patterns and novelty designs is designated as Novelty-Printing-Machine Operator (textile) or Proofing-Machine Operator (print. & pub.). May set up and operate cloth printing machine utilizing caustic soda paste instead of color paste to print designs on cloth which shrink to form plisse, and be designated Plisse-Machine Operator (textile).

GOE: 06.02.09 STRENGTH: M GED: R4 M1 L3 SVP: 7 DLU: 77 — i) Definition Trailer

e) Lead Statement

f) Task Elements Statements

g) "May" Items

h) Undefined Related Titles

l) Glossary Item

k) Unbracketed Reference Title

j) Bracketed Title

13. How essential are the following elements of a DOT definition for your PRIMARY use of the DOT? **Please circle ONE response for EACH LINE.**

	Elements of a DOT Definition	Essential	Not Essential	Never Used
a	Occupational Code	1	2	3
b	Occupational Title	1	2	3
c.	Industry Designation	1	2	3
d.	Alternate Titles	1	2	3
e.	Lead Statement	1	2	3
f.	Task Elements Statements	1	2	3
g.	"May" Items	1	2	3
h.	Undefined Related Titles	1	2	3
i.	Definition Trailer	1	2	3
j.	Bracketed Title(s)	1	2	3
k.	Unbracketed Title(s)	1	2	3
l.	Glossary Items	1	2	3
m.	Complete definition (i.e., full-text job description)	1	2	3

14. For your PRIMARY use of the DOT, please indicate how satisfied you are with each of the following features of the DOT. **Please circle ONE response for EACH LINE.**

	Features of DOT	Never Satisfied	Minimally Satisfied	Moderately Satisfied	Very Satisfied
a.	Classification of occupations (grouping of occupations)	1	2	3	4
b.	Coverage of occupations (number and type of occupations included)	1	2	3	4
c.	Currency of information (timeliness of information)	1	2	3	4
d.	Amount of information (level of detail in information provided)	1	2	3	4
e.	Accuracy of information	1	2	3	4
f.	Arrangement and presentation of information	1	2	3	4
g.	Ease of use	1	2	3	4

15. For your PRIMARY use of the DOT, please indicate the level of detail required in each of the following worker characteristics. **Please circle ONE response for EACH LINE.** Circle Do Not Use for those characteristics that you do not use in your work.

	DOT Worker Characteristics	More Detail Required	Detail About Right	Less Detail Required	Do Not Use
	Aptitudes				
a.	Mental (verbal, numerical, general learning ability, etc.)	1	2	3	4
b.	Sensory perception (spatial, form perception, color discrimination, etc.)	1	2	3	4
c.	Psychomotor (motor coordination, manual dexterity, etc.)	1	2	3	4
	Environment				
d.	Environmental Conditions (vibration, radiation, noise, etc.)	1	2	3	4
	General Education Development (GED)				
e.	Reasoning	1	2	3	4
f.	Mathematics	1	2	3	4
g.	Language	1	2	3	4
	GOE Code (Guide for Occupational Exploration)				
h.	Interest Areas (artistic, mechanical, etc.)	1	2	3	4
	Physical Demands				
i.	Gross bodily movements (strength, climbing, etc.)	1	2	3	4
j.	Fine movements (reaching, feeling, etc.)	1	2	3	4
k.	Sensory factors (talking, hearing, etc.)	1	2	3	4
l.	Visual perception (near acuity, accommodation, etc.)	1	2	3	4
	Specific Vocational Preparation				
m.	Specific Vocational Preparation (SVP)	1	2	3	4
	Temperaments				
n.	Temperaments (directing activities of others, expressing feelings, etc.)	1	2	3	4

SKILLS TRANSFERABILITY

"Transferable skills" refers to those areas of knowledge and skills that enable individuals to move from one occupation to another. For example, public school teachers must make oral presentations. So must Sunday school teachers. Therefore, presentation skills should transfer from teaching public school to teaching Sunday school.

16. In your work, how important is it for you to be able to determine the transferability of skills between occupations? **Please circle only ONE response.**

Very important.....1 [GO TO Q. 17]
Moderately important.....2 [GO TO Q. 17]
Minimally important.....3 [GO TO Q. 17]
Never important.....4 [GO TO Q. 19]

17. Do you use the DOT to determine skills transferability? **Please circle only ONE response.**

Yes, it is my primary source for this purpose.....1 [GO TO Q. 18]
Yes, but it is not my primary source for this purpose.....2 [GO TO Q. 18]
No.....3 [GO TO Q. 19]

18. Please indicate whether or not you use the following DOT information in making skills transferability determinations. **Please circle ONE response for EACH LINE.**

DOT Information	Use	Do Not Use
a. OGA (Occupational Group Arrangement) Classification	1	2
b. Worker functions: relationship to data, people, things (middle three digits of DOT code)	1	2
c. Tasks performed (body of DOT definition)	1	2
d. General Education Development (GED)	1	2
e Specific Vocational Preparation (SVP)	1	2
f. Physical demands	1	2
g. Temperaments	1	2
h. Aptitudes	1	2
i. Other (please specify)_____	1	2

POSSIBLE CHANGES IN THE DOT

19. For your **PRIMARY** use of the DOT in the **FUTURE**, which of the following options for presenting the information would be most useful to you? **Please circle only ONE response.**

Automated/computer-based version.....1
Print version.....2
Both are equally useful.....3

20. For your **PRIMARY** use of the DOT in the **FUTURE**, please indicate the importance of the following DOT format and dissemination options. **Please circle ONE response for EACH LINE.**

Options	Never Important	Minimally Important	Moderately Important	Very Important
Print Version				
a. Higher quality paper and binding	1	2	3	4
b. Hard cover	1	2	3	4
c. Larger print size and more spacing with multiple volumes	1	2	3	4
d. Loose-leaf version with replaceable pages	1	2	3	4
e. Other (please specify)_____	1	2	3	4
Automated Version				
f. Floppy diskette	1	2	3	4
g. CD-ROM (large-scale information storage/retrieval on compact disc)	1	2	3	4
h. DOT master data tape	1	2	3	4
i. Text files	1	2	3	4
j. Database files	1	2	3	4
k. Personal computer (on-line information retrieval)	1	2	3	4
l. Mainframe computer	1	2	3	4
m. Bulletin board service	1	2	3	4
n. Flexible search capabilities	1	2	3	4
o. Other (please specify)_____	1	2	3	4

21. For your **PRIMARY** use of the DOT in the **FUTURE**, please indicate the importance of the following possible changes in specific features of the DOT. **Please circle ONE response for EACH LINE.**

Possible DOT Changes	Very Important	Moderately Important	Minimally Important	Never Important
a. Replace the current system for coding occupational groups with the revised Standard Occupational Codes (SOC) used by the Bureau of Labor Statistics and the Census Bureau	1	2	3	4
b. Consolidate and present occupations in broader categories	1	2	3	4
c. In addition to current groupings, group occupations by:				
■ Skills	1	2	3	4
■ Tasks performed	1	2	3	4
■ Industry	1	2	3	4
■ Job complexity	1	2	3	4
■ Other (please specify)_____	1	2	3	4
d. Replace the current industrial designations with the Standard Industrial Classification (SIC)	1	2	3	4
e. Provide cross-walks to other classification systems	1	2	3	4
f. Replace Specific Vocational Preparation (SVP) with formal education/training requirements in terms of hours of preparation	1	2	3	4
g. Replace General Education Development (GED) with actual technical knowledge requirements	1	2	3	4
h. Incorporate the following features, currently available only on tape, into the DOT print versions:				
■ Work fields	1	2	3	4
■ Worker functions	1	2	3	4
■ Materials, products, subject matter and services	1	2	3	4
■ Temperaments	1	2	3	4
■ Aptitudes	1	2	3	4
■ Detailed physical requirements	1	2	3	4
■ Environmental conditions	1	2	3	4
i. Include worker characteristics in definitions, in narrative rather than in coded form	1	2	3	4

22 Should all occupations in the U.S. or only a limited number of occupations be covered in the DOT? **Please circle only ONE response.**

A limited number of occupations ..... 1 [GO TO Q. 23]
All occupations ..... 2 [GO TO Q. 24]
No opinion ..... 3 [GO TO Q. 24]

23. How important are the following criteria in selecting only a limited number of occupations for coverage in the DOT? **Please circle ONE response for EACH LINE.**

		Very Important	Moderately Important	Minimally Important	Never Important
a.	Complexity of the tasks performed	1	2	3	4
b.	Extent of education/training required	1	2	3	4
c.	Recent significant changes in task/skill requirements	1	2	3	4
d.	High level of current employment	1	2	3	4
e.	Anticipated high level of employment growth	1	2	3	4
f.	Anticipated labor shortages	1	2	3	4
g.	Number of Employment Service (ES) job orders	1	2	3	4
h	Turnover rate	1	2	3	4
i.	Other (please specify)_____	1	2	3	4

24. Should the DOT provide more detailed information about certain occupations or the same amount of information for all occupations? **Please circle only ONE response.**

More detailed information on certain occupations ..... 1 [GO TO Q. 25]
Same amount of information on all occupations ..... 2 [GO TO Q. 26]
No opinion ..... 3 [GO TO Q. 26]

25. How important are the following criteria in selecting those occupations to be described in greater detail in the DOT? **Please circle ONE response for EACH LINE.**

		Very Important	Moderately Important	Minimally Important	Never Important
a.	Complexity of the tasks performed	1	2	3	4
b.	Extent of education/training required	1	2	3	4
c.	Recent significant changes in task/skill requirements	1	2	3	4
d.	High level of current employment	1	2	3	4
e.	Anticipated high level of employment growth	1	2	3	4
f.	Anticipated labor shortages	1	2	3	4
g.	Number of Employment Service (ES) job orders	1	2	3	4
h	Turnover rate	1	2	3	4
i.	Other (please specify)_____	1	2	3	4

DOT PURCHASES

26. How did you **first learn** about the Dictionary of Occupational Titles? **Please circle only ONE response.**

First Knowledge of Dictionary

Flyer from the superintendent of documents	01
Catalog from the superintendent of documents	02
Priority announcement from the superintendent of documents	03
U.S. government bookstore mail announcement	04
Information in a professional journal	05
Newspaper article	06
Magazine article	07
R.R. Bowker's books in print	08
U.S. Government bookstore visit	09
Attendance at professional meeting	10
Colleague	11
College instructor	12
Don't remember	13
Other (please specify) _____	14

27. How often do you purchase the Dictionary of Occupational Titles? **Please circle only ONE response.**

When a new edition, revision, supplement is published	1
Once each year	2
Every two years	3
Every three years or more	4
Never	5

28. Do you have any additional comments about the current or future DOT or, more generally, comments about the kinds of occupational information you need that are not currently available?

_____

_____

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[FR Doc. 92-10228 Filed 4-30-92; 8:45 am]
BILLING CODE 4510-30-C

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Georgia, GA91-3 (Feb. 22, 1991).	p. All
Virginia,	
VA91-9 (Feb. 22, 1991).....	p. All
VA91-50 (Feb. 22, 1991)....	p. All

Volume II

Illinois, IL91-15 (Feb. 22, 1991).	p. 205 p. 208
Kansas, KS 91-6 (Feb. 22, 1991).	p. All
Nebraska, NE91-1 (Feb. 22, 1991).	p. All
Wisconsin, WI91-18 (Feb. 22, 1991).	p. All

Volume III

California, CA91-2 (Feb. 22, 1991).	p. All
Idaho, ID91-1 (Feb. 22, 1991).	p. All
Montana, MT91-8 (Feb. 22, 1991).	p. All
Oregon, OR91-1 (Feb. 22, 1991).	p. All
Washington, WA91-1 (Feb. 22, 1991).	p. 451 p. 456

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 24th day of April 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-9951 Filed 4-30-92; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Job Training Partnership Act; Native American Programs, Final Total Allocations, Allocation Formulas and Formula Rationales for Program Year 1992 Regular Program and Calendar Year 1992 Summer Youth Employment and Training Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration of the Department of Labor is publishing the final Native American allocations, distribution formulas and rationales for the Program Year 1992 (July 1, 1992-June 30, 1993) title IV-A regular program funded under the Job Training Partnership Act and for the Calendar Year 1992 Summer Youth Employment and Training Program funded under title II-B of the Job Training Partnership Act.

FOR FURTHER INFORMATION CONTACT: Mr. Carmelo J. Milici, phone: (202) 535-0507 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 162 of the Job Training Partnership Act (JTPA), the Employment and Training Administration (ETA) of the Department of Labor (DOL) publishes the final allocations, allocation formulas and rationales for those formulas for Native American grantees to be funded under JTPA, title IV-A, section 401 and JTPA title II-B. The total amounts to be allocated are $63,000,000 for the Program Year 1992 JTPA, title IV-A, section 401 regular program, and $12,418,726 for the JTPA title II-B Summer Youth Employment and Training Program (SYETP) for the summer of Calendar Year 1992.

This information, along with individual grantee planning estimates, was published in the **Federal Register**, Vol. 57, No. 10, page 1762, on January 15, 1992, as a proposal. A list of corrections to the proposed allocations was published in the **Federal Register**, Vol. 57, No. 52, page 9346 on March 17, 1992.

Written comments were invited from the public. No comments were received on or before the deadline of February 14, 1992. The allocations set forth in this notice remain unchanged from the allocations announced in the notice of proposed allocations as corrected.

The formula for JTPA, Title IV-A, section 401 provides that 25 percent of the funding will be based on the number of unemployed Native Americans in the grantee's area, and 75 percent will be based on the number of poverty-level Native Americans in the grantee's area.

The formula for allocating the JTPA, title II-B, SYETP funds divides the funds among eligible recipients based on the proportion that the number of Native American youths in a recipient's area bears to the total number of Native American youths in all eligible recipients' areas.

The rational for the above formulas is that the number of poverty-level persons, unemployed persons and youth among the Native American population is indicative of the need for training and employment funds.

Statistics on poverty-level persons, unemployed persons and youth among Native Americans used in the above programs are derived from the Decennial Census of the Population, 1980.

Signed at Washington, DC this 4th day of April 1992.

Roberts T. Jones,

Assistant Secretary of Labor.

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, PY 1992 TITLE IV-A AND PY 1991 II-B (SUMMER 1992) FINAL ALLOTMENTS FOR NATIVE AMERICANS, DECEMBER 11, 1991

Grantee	PY 1992 title IV-A			PY 1991 II-B (summer 1992)		
	Total	Program	Cost pool	Total	Program	Cost pool
Inter-Tribal Council of Alabama, 669 South Lawrence Street, Montgomery, Alabama 36104	309,229	247,383	61,846	0	0	0
Grant Number: 99-1-2455-55-255-02						
Poarch Band of Creek Indians, Route 3, Box 243A, Atmore, Alabama 36502	101,315	81,052	20,263	2,253	1,802	451
Grant Number: 99-1-0648-55-173-02						
Aleutian/Pribilof Islands Assoc. Inc., 401 East Fireweed Lane, Suite 201, Anchorage, Alaska 99503-2111	48,965	39,172	9,793	33,255	26,604	6,651
Grant Number: 99-1-0117-55-139-02						
Assoc. of Village Council Presidents, Pouch 219, Bethel, Alaska 99559	582,031	465,625	116,406	249,908	199,926	49,982
Grant Number: 99-1-2713-55-210-02						
Bristol Bay Native Association, P.O. Box 310, Dillingham, Alaska 99576	144,280	115,424	28,856	75,883	60,706	15,177
Grant Number: 99-1-0116-55-138-02						
Central Council of Tlingit and Haida Indian Tribes of Alaska, 320 W. Willoughby, Suite 300, Juneau, Alaska 99801	180,607	144,486	36,121	124,819	99,855	24,964
Grant Number: 99-1-0114-55-136-02						
Cook Inlet Tribal Council, 670 West Fireweed Lane—Suite 200, Anchorage, Alaska 99503	373,887	299,110	74,777	192,230	153,784	38,446
Grant Number: 99-1-3402-55-243-02						
Kawerak Incorporated, P.O. Box 948, Nome, Alaska 99762	227,333	181,866	45,467	88,320	70,656	17,664
Grant Number: 99-1-0123-55-141-02						
Kenaitze Indian Tribe, P.O. Box 988, Kenai, Alaska 99611	31,015	24,812	6,203	16,763	13,410	3,353
Grant Number: 99-1-0089-55-135-02						
Kodiak Area Native Association, 402 Center Avenue, Kodiak, Alaska 99615	65,734	52,587	13,147	32,083	25,666	6,417
Grant Number: 99-1-0115-55-137-02						
Maniilaq Manpower, P.O. Box 725, Kotzebue, Alaska 99752	178,390	142,712	35,678	85,075	68,060	17,015
Grant Number: 99-1-0124-55-142-02						
Metlakatla Indian Community, P.O. Box 8, Metlakatla, Alaska 99926	16,185	12,948	3,237	17,484	13,987	3,497
Grant Number: 99-1-0064-55-121-02						
North Pacific Rim, 3300 C Street, Anchorage, Alaska 99503	59,369	47,495	11,874	25,054	20,043	5,011
Grant Number: 99-1-0118-55-140-02						
Sitka Community Association, P.O. Box 1450, Sitka, Alaska 99835	44,690	35,752	8,938	36,319	29,055	7,264
Grant Number: 99-1-1776-55-254-02						
Tanana Chiefs Conference, Inc., 122 First Avenue, Fairbanks, Alaska 99701	396,628	317,302	79,326	206,740	165,392	41,348
Grant Number: 99-1-3109-55-227-02						
Affiliation of Arizona Ind. Cntrs. Inc., 1515 East Osborne Rd., The Annex, Phoenix, Arizona 85014	262,354	209,883	52,471	0	0	0
Grant Number: 99-1-0268-55-158-02						
American Indian Assoc. of Tucson, P.O. Box 2307—131 East Broadway, First Floor, Tucson, Arizona 85725	342,343	273,874	68,469	0	0	0
Grant Number: 99-1-0492-55-164-02						
Colorado River Indian Tribes, Route 1, Box 23-B, Parker, Arizona 85344	83,845	67,076	16,769	29,921	23,937	5,984
Grant Number: 99-1-0498-55-165-02						
Gila River Indian Community, Box 97, Sacaton, Arizona 85247	501,331	401,065	100,266	128,875	103,100	25,775
Grant Number: 99-1-0054-55-116-02						
Hopi Tribal Council, Box 123, Kykotsmovi, Arizona 86039	392,851	314,281	78,570	102,559	82,047	20,512

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, PY 1992 TITLE IV-A AND PY 1991 II-B (SUMMER 1992) FINAL ALLOTMENTS FOR NATIVE AMERICANS, DECEMBER 11, 1991—Continued

Grantee	PY 1992 title IV-A			PY 1991 II-B (summer 1992)		
	Total	Program	Cost pool	Total	Program	Cost pool
Grant Number: 99-1-0057-55-117-02						
Indian Dev. Dist. of Arizona, Inc., 4560 North 19th Ave., Suite 200, Phoenix, Arizona 85015	114,569	91,655	22,914	41,817	33,454	8,363
Grant Number: 99-1-0053-55-115-02						
Native Americans for Community Action, 2717 North Steves Boulevard, Suite 11, Flagstaff, Arizona 86004	116,778	93,422	23,356	0	0	0
Grant Number: 99-1-1777-55-193-02						
Navajo Tribe of Indians, P.O. Box 1889, Window Rock, Arizona 86515	6,962,533	5,570,026	1,392,507	2,261,523	1,809,218	452,305
Grant Number: 99-1-0059-55-119-02						
Pasoua Yaqui Tribe, 7474 S. Camino De Oeste, Tucson, Arizona 85746	39,364	31,491	7,873	8,922	7,138	1,784
Grant Number: 99-1-3289-55-237-02						
Phoenix Indian Center, Inc., 2601 North Third Street-Suite 100, Phoenix, Arizona 85004	720,300	576,240	144,060	0	0	0
Grant Number: 99-1-0195-55-153-02						
Salt River Pima-Maricopa Ind. Commun., Route 1, Box 216, Scottsdale, Arizona 85256	98,011	78,409	19,602	44,791	35,833	8,958
Grant Number: 99-1-0476-55-162-02						
San Carlos Apache Tribe, P.O. Box 'O', San Carlos, Arizona 85550	319,753	255,802	63,951	112,743	90,194	22,549
Grant Number: 99-1-0173-55-149-02						
Tohono O'Odham Nation, P.O. Box 837, Sells, Arizona 85634	436,984	349,587	87,397	121,935	97,548	24,387
Grant Number: 99-1-0181-55-152-02						
White Mountain Apache Tribe, P.O. Box 700, White River, Arizona 85941	339,608	271,686	67,922	126,441	101,153	25,288
Grant Number: 99-1-0174-55-150-02						
Am. Indian Center of Arkansas, Inc., 2 Van Circle, Suite 2, Little Rock, Arkansas 72207	475,684	380,547	95,137	0	0	0
Grant Number: 99-1-1778-55-194-02						
Amer. Indian Center of Santa Clara Valley, Inc., 919 The Alameda, San Jose, California 95126	241,653	193,322	48,331	0	0	0
Grant Number: 99-1-0499-55-166-02						
California Indian Manpower Csrt., 4153 Northgate Boulevard, Sacramento, California 95834	3,159,081	2,527,265	631,816	168,799	135,039	33,760
Grant Number: 99-1-2058-55-203-02						
Candelaria American Indian Council, 2635 Wagon Wheel Road, Oxnard, California 93030	470,784	376,627	94,157	0	0	0
Grant Number: 99-1-0086-55-133-02						
Indian Human Resources Center, 4040 30th Street Suite A, San Diego, California 92104	460,886	368,709	92,177	0	0	0
Grant Number: 99-1-2441-55-209-02						
Northern Calif. Ind. Dev. Council, Inc., 241 F Street, Eureka, California 95501	331,974	265,579	66,395	14,780	11,824	2,956
Grant Number: 99-1-0686-55-175-02						
Southern California Indian Center, Inc., 12755 Brookhurst Street, P.O. Box 2550, Garden Grove, California 92642-2550	2,035,251	1,628,201	407,050	0	0	0
Grant Number: 99-1-0170-55-147-02						
Tule River Tribal Council, Dept. of Health, Safety & Welfare, P.O. Box 589, Porterville, California 93258	136,547	109,238	27,309	4,055	3,244	811
Grant Number: 99-1-3219-55-230-02						
United Indian Nations, Inc., 1320 Webster Street, Oakland, California 94612	656,273	525,018	131,255	0	0	0
Grant Number: 99-1-2310-55-208-02						
YA-KA-AMA Indian Educ. and Dev., Inc., 6215 Eastside Road, Forestville, California 95436	135,175	108,140	27,035	0	0	0
Grant Number: 99-1-0082-55-132-02						
Denver Indian Center, Inc., 4407 Morrison Road, Denver, Colorado 80219	630,420	504,336	126,084	0	0	0
Grant Number: 99-1-0076-55-129-02						
Southern Ute Indian Tribe, P.O. Box 800, Ignacio, Colorado 81137	58,321	46,657	11,664	14,690	11,752	2,938
Grant Number: 99-1-2714-55-211-02						
Ute Mountain Ute Tribe, P.O. Box 30, Towaoc, Colorado 81334	70,320	56,256	14,064	17,754	14,203	3,551
Grant Number: 99-1-1143-55-188-02						
American Indians for Development, Inc., P.O. Box 117, Meriden, Connecticut 06450	196,339	157,071	39,268	0	0	0
Grant Number: 99-1-0361-55-160-02						
Nanticoke Indian Association, Inc., Rt. 4, Box 107A, Millsboro, Delaware 19966	40,551	32,441	8,110	0	0	0
Grant Number: 99-1-3518-55-251-02						
Fla. Governors Council on Ind. Affairs, 1020 Lafayette Street—Suite 102, Tallahassee, Florida 32301	1,245,565	996,452	249,113	0	0	0
Grant Number: 99-1-0692-55-178-02						
McCoslkee Corporation, P.O. Box 440021, Tamiami Station, Miami, Florida 33144	124,899	99,919	24,980	38,212	30,570	7,642
Grant Number: 99-1-0052-55-114-02						
Seminole Tribe of Florida, 6073 Stirling Road, Hollywood, Florida 33024	70,343	56,274	14,069	7,480	5,984	1,496
Grant Number: 99-1-0004-55-076-02						
Alulike, Inc., 1024 Mapunapuna Street, Honolulu, Hawaii 96819-4417	2,590,738	2,072,590	518,148	1,983,767	1,587,014	396,753
Grant Number: 99-1-1179-55-190-02						
American Indian Services Corporation, 1405 North King Street, Suite 302, Honolulu, Hawaii 96817	91,346	73,077	18,269	0	0	0

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Grantee	PY 1992 title IV-A			PY 1991 II-B (summer 1992)		
	Total	Program	Cost pool	Total	Program	Cost pool
Grant Number: 99-1-3404-55-244-02						
Kootenai Tribe of Idaho, P.O. Box 1269, Bonners Ferry, Idaho 83805	33,740	26,992	6,748	1,262	1,010	252
Grant Number: 99-1-3334-55-238-02						
Nez Perce Tribe, P.O. Box 365, Lapwai, Idaho 83540-0365	84,400	67,520	16,880	11,806	9,445	2,361
Grant Number: 99-1-0065-55-122-02						
Shoshone—Bannock Tribes, Fort Hall Business Council, P.O. Box 306, Fort Hall, Idaho 83203	250,611	200,489	50,122	38,302	30,642	7,660
Grant Number: 99-1-1780-55-195-02						
American Indian Business Association, 4753 North Broadway, Suite 700, Chicago, Illinois 60640	1,135,804	908,643	227,161	0	0	0
Grant Number: 99-1-0809-55-181-02						
Mid America All Indian Center, Inc., 650 N. Seneca, Wichita, Kansas 67203	169,355	135,484	33,871	0	0	0
Grant Number: 99-1-0168-55-145-02						
United Tribes of Kansas and S.E. Neb., P.O. Box 29, Horton, Kansas 66439	517,885	414,308	103,577	9,373	7,498	1,875
Grant Number: 99-1-0178-55-151-02						
Inter-Tribal Council of Louisiana, Inc., 5723 Superior Drive—Suite B-1, Baton Rouge, Louisiana 70816	469,312	375,450	93,862	5,227	4,182	1,045
Grant Number: 99-1-0026-55-092-02						
Central Maine Indian Association, Inc., 157 Park Street—P.O. Box 2280, Bangor, Maine 04401	95,572	76,458	19,114	0	0	0
Grant Number: 99-1-2719-55-212-02						
Tribal Governors, Inc., 93 Main Street, Orono, Maine 04473	109,943	87,954	21,989	26,226	20,981	5,245
Grant Number: 99-1-0001-55-074-02						
Baltimore American Indian Center, 113 So. Broadway, Baltimore, Maryland 21231	373,336	298,669	74,667	0	0	0
Grant Number: 99-1-3405-55-245-02						
Mashpee—Wampahoag Indian Tribal Council, Inc., P.O. Box 1048, Mashpee, Massachusetts 02649	86,766	69,413	17,353	0	0	0
Grant Number: 99-1-0408-55-161-02						
Grant Rapids Inter-Tribal Council, 45 Lexington Ave. N.W., Grand Rapids, Michigan 49504	124,172	99,338	24,834	0	0	0
Grant Number: 99-1-0694-55-179-02						
Grand Traverse Band of Ottawa and Chippewa Indians, Route 1, Box 135, Suttons Bay, Michigan 49682	57,528	46,022	11,506	2,343	1,874	469
Grant Number: 99-1-2721-55-213-02						
Inter-Tribal Council of Michigan, Inc., 405 East Easterday Avenue, Sault Ste. Marie, Michigan 49783	68,915	55,132	13,783	29,109	23,287	5,822
Grant Number: 99-1-0172-55-148-02						
Michigan Indian Employment and Training Services, Inc., 2459 Delphi Commerce Drive, Suite 5, Holt, Michigan 48858	830,407	664,326	166,081	0	0	0
Grant Number: 99-1-1144-55-189-02						
North American Indian Assoc. of Detroit, 22720 Plymouth Road, Detroit, Michigan 48239	311,585	249,268	62,317	0	0	0
Grant Number: 99-1-0695-55-180-02						
Potawatomi Indian Nation, 185 E. Main, Suite 300 Vincent Place, Benton Harbor, Michigan 49022	158,928	127,142	31,786	0	0	0
Grant Number: 99-1-3339-55-240-02						
Sault Ste. Marie Tribe of Chippewa Indians, 2151 Shunk Road, Sault St. Marie, Michigan 49783	244,421	195,537	48,884	40,825	32,660	8,165
Grant Number: 99-1-0507-55-168-02						
Southeastern Michigan Indians, Inc., 22620 Ryan Road, P.O. Box 861, Warren, Michigan 48090	174,152	139,322	34,830	0	0	0
Grant Number: 99-1-3220-55-231-02						
American Indian Opportunities Ctr., 1845 East Franklin Avenue, Minneapolis, Minnesota 55404	545,761	436,609	109,152	0	0	0
Grant Number: 99-1-3221-55-232-02						
Bois Forte R. B. C., P.O. Box 16, Nett Lake, Minnesota 55772	40,541	32,433	8,108	8,562	6,850	1,712
Grant Number: 99-1-0010-55-081-02						
Fond Du Lac R.B.C., 105 University Road, Cloquet, Minnesota 55720	183,399	146,719	36,680	8,111	6,489	1,622
Grant Number: 99-1-0009-55-080-02						
Leech Lake R.B.C., Route 3, Box 100, Cass Lake, Minnesota 56633	187,307	149,846	37,461	46,773	37,418	9,355
Grant Number: 99-1-0012-55-083-02						
Mille Lacs Band of Chippewa Indians, Star Route—Box 194 OIC Bldg., Onamia, Minnesota 56359	34,193	27,354	6,839	8,471	6,777	1,694
Grant Number: 99-1-0008-55-079-02						
Minneapolis American Indian Center, 1530 East Franklin Avenue, Minneapolis, Minnesota 55404	319,554	255,643	63,911	11,806	9,445	2,361
Grant Number: 99-1-0204-55-154-02						
Red Lake Tribal Council, P.O. Box 310, Red Lake, Minnesota 56671	149,981	119,985	29,996	60,292	48,234	12,058
Grant Number: 99-1-0017-55-086-02						
White Earth R.B.C., Box 418, White Earth, Minnesota 56591	167,889	134,311	33,578	48,125	38,500	9,625
Grant Number: 99-1-0011-55-082-02						
Mississippi Band of Choctaw Indians, P.O. Box 6010, Choctaw Branch, Philadelphia, Mississippi 39350	325,160	260,128	65,032	49,657	39,726	9,931

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Grantee	PY 1992 title IV-A			PY 1991 II-B (summer 1992)		
	Total	Program	Cost pool	Total	Program	Cost pool
Grant Number: 99-1-0005-55-077-02						
Region VII American Indian Council, Inc., 310 Armour Road, Suite 205, North Kansas City, Missouri 64116	602,457	481,966	120,491	0	0	0
Grant Number: 99-1-0967-55-182-02						
Assiniboine and Sioux Tribes, Fort Peck Indian Reservation, P.O. Box 1027, Poplar, Montana 59255	224,343	179,474	44,869	73,359	58,687	14,672
Grant Number: 99-1-0033-55-098-02						
Blackfeet Tribal Business Council, P.O. Box 1090, Browning, Montana 59417	260,236	208,189	52,047	88,139	70,511	17,628
Grant Number: 99-1-0006-55-078-02						
Chippewa Cree Tribe, Rocky Boy Route—P.O. Box 578, Box Elder, Montana 59521	104,720	83,776	20,944	28,388	22,710	5,678
Grant Number: 99-1-0035-55-100-02						
Confederated Salish & Kootenai Tribes, P.O. Box 278, Pablo, Montana 59855	263,295	210,636	52,659	69,214	55,371	13,843
Grant Number: 99-1-0031-55-096-02						
Crow Indian Tribe, P.O. Box 159, Crow Agency, Montana 59022	221,136	176,909	44,227	77,415	61,932	15,483
Grant Number: 99-1-0030-55-095-02						
Fort Belknap Indian Community, P.O. Box 249, Harlem, Montana 59526	84,424	67,539	16,885	34,787	27,830	6,957
Grant Number: 99-1-0032-55-097-02						
Montana United Indian Association, P.O. Box 6043, Helena, Montana 59604	454,033	363,226	90,807	0	0	0
Grant Number: 99-1-0074-55-127-02						
Northern Cheyenne Tribe, P.O. Box 368, Lame Deer, Montana 59043	175,233	140,186	35,047	51,910	41,528	10,382
Grant Number: 99-1-0034-55-099-02						
Indian Center, Inc., 1100 Military Road, Lincoln, Nebraska 68508	180,712	144,570	36,142	0	0	0
Grant Number: 99-1-2722-55-214-02						
Nebraska Indian Inter-Tribal Dev. Corp., Route 1—Box 66-A, Winnebago, Nebraska 68071	327,760	262,208	65,552	52,361	41,889	10,472
Grant Number: 99-1-0087-55-134-02						
Inter-Tribal Council of Nevada, P.O. Box 7440, Reno, Nevada 89510	351,784	281,427	70,357	65,969	52,775	13,194
Grant Number: 99-1-0058-55-118-02						
Las Vegas Indian Center, Inc., 2300 West Bonanza Road, Las Vegas, Nevada 89106	98,447	78,758	19,689	0	0	0
Grant Number: 99-1-0687-55-176-02						
Shoshone Paiute Tribes, P.O. Box 219, Owyhee, Nevada 89832	173,349	138,679	34,670	18,385	14,708	3,677
Grant Number: 99-1-2723-55-215-02						
Powhatan Renape Nation, Rankokus Reservation—P.O. Box 225, Rankokus, New Jersey 08073	311,467	249,174	62,293	0	0	0
Grant Number: 99-1-3222-55-233-02						
Alamo Navajo School Board, P.O. Box 907, Magdalena, New Mexico 87825	814,414	65,131	16,283	17,033	13,626	3,407
Grant Number: 99-1-2724-55-216-02						
All Indian Pueblo Council, Inc., 3939 San Pedro, NE—Suite D P.O. Box 3256, Albuquerque, New Mexico 87190	134,467	107,574	26,893	64,618	51,694	12,924
Grant Number: 99-1-3341-55-241-02						
Eight Northern Indian Pueblo Council, P.O. Box 969, San Juan Pueblo, New Mexico 87566	83,806	67,045	16,761	38,122	30,498	7,624
Grant Number: 99-1-3223-55-234-02						
Five Sandoval Indian Pueblos, Inc., P.O. Box 580, Bernalillo, New Mexico 87004	126,215	100,972	25,243	65,248	52,198	13,050
Grant Number: 99-1-3336-55-239-02						
Jicarilla Apache Tribe, P.O. Box 507, Dulce, New Mexico 87528-0507	56,784	45,427	11,357	29,830	23,864	5,966
Grant Number: 99-1-2725-55-217-02						
Mescalero Apache Tribe, P.O. Box 176, Mescalero, New Mexico 88340	79,294	63,435	15,859	29,019	23,215	5,804
Grant Number: 99-1-3100-55-226-02						
National Indian Youth Council, 318 Elm Street SE, Albuquerque, New Mexico 87102	753,522	602,818	150,704	0	0	0
Grant Number: 99-1-0077-55-130-02						
Pueblo of Acoma, P.O Box 469, Pueblo of Acoma, New Mexico 87034	106,442	85,154	21,288	39,564	31,651	7,913
Grant Number: 99-1-2199-55-204-02						
Pueblo of Laguna, P.O Box 194, Laguna, New Mexico 87026	79,890	63,912	15,978	55,425	44,340	11,085
Grant Number: 99-1-1583-55-191-02						
Pueblo of Taos, P.O Box 1846, Taos, New Mexico 87571	34,263	27,410	6,853	12,076	9,661	2,415
Grant Number: 99-1-2200-55-205-02						
Pueblo of Zini, P.O. Box 339, Zuni, New Mexico 87237	305,532	244,426	61,106	122,476	97,981	24,495
Grant Number: 99-1-0021-55-089-02						
Ramah Navajo School Board, Inc., P.O. Box 190, Pine Hill, New Mexico 87357	97,558	78,046	19,512	22,350	17,880	4,470
Grant Number: 99-1-0146-55-143-02						
Santa Clara Indian Pueblo, P.O. Box 580, Espanola, New Mexico 87532	20,426	16,341	4,085	5,407	4,326	1,081
Grant Number: 99-1-3224-55-235-02						
Santo Domingo Tribe, P.O. Box 99, Santo Domingo, New Mexico 87052	133,001	106,401	26,600	39,564	31,651	7,913
Grant Number: 99-1-1781-55-196-02						
American Indian Community House, Inc., 404 Lafayette Street, 2nd Floor, New York City, New York 10003	815,673	652,538	163,135	2,974	2,379	595

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Grantee	PY 1992 title IV-A			PY 1991 II-B (summer 1992)		
	Total	Program	Cost pool	Total	Program	Cost pool
Grant Number: 99-1-0348-55-159-02						
Native American Cultural Center, Inc., 1475 Winton Road North—Suite 12, Rochester, New York 14609	299,537	239,630	59,907	6,939	5,551	1,388
Grant Number: 99-1-3407-55-246-02						
Native American Comm. Svcs. of Erie & Niagara Ctys., 1047 Grant Street (rear)—P.O Box 86, Buffalo, New York 14207-0086	242,926	194,341	48,585	9,733	7,786	1,947
Grant Number: 99-0689-55-177-02						
St. Regis Mohawk Tribe, Community Building, Hogansburg, New York 13655	173,281	138,625	34,656	26,406	21,125	5,281
Grant Number: 99-1-0522-55-171-02						
Seneca Nations of Indians, 1492 Route 438, Irving, New York 14081	322,221	257,777	64,444	52,000	41,600	10,400
Grant Number: 99-1-0169-55-146-02						
Cumberland County Assoc. For Ind. People, 102 Indian Drive, Fayotteville, North Carolina 28301	131,879	105,503	26,376	0	0	0
Grant Number: 99-1-1782-55-197-02						
Eastern Band of Cherokee Indians, P.O. Box 481, Cherokee, North Carolina 28719	248,561	198,849	49,712	82,912	66,330	16,582
Grant Number: 99-1-0003-55-075-02						
Guilford Native American Assoc., P.O. Box 5623, 400 Prescott Street, Greensboro, North Carolina 27435-0623	100,242	80,194	20,048	0	0	0
Grant Number: 99-1-2727-55-219-02						
Haliwa-Saponi Tribe, Inc., P.O. Box 99, Hollister, North Carolina 27844	69,865	55,892	13,973	0	0	0
Grant Number: 99-1-3514-55-247-02						
Lumbee Reg. Dev. Assoc., P.O. Box 68, Pembroke, North Carolina 28372-0068	1,354,805	1,083,844	270,961	0	0	0
Grant Number: 99-1-0067-55-123-02						
Metrolina Native American Assn., 2601-A East Seventh Street, Charlotte, North Carolina 28204	102,453	81,962	20,491	0	0	0
Grant Number: 99-1-2726-55-218-02						
North Carolina Comm. of Ind. Affairs, 325 North Salisbury Street—Suite 579, Raleigh, North Carolina 27603-5940	333,983	267,186	66,797	0	0	0
Grant Number: 99-1-0070-55-124-02						
Devils Lake Sioux Tribe, P.O. Box 359, Fort Totten, North Dakota 58335	124,818	99,854	24,964	36,860	29,488	7,372
Grant Number: 99-1-0037-55-101-02						
Standing Rock Sioux Tribe, Box D, Fort Yates, North Dakota 58538	261,211	208,969	52,242	89,581	71,665	17,916
Grant Number: 99-1-0046-55-109-02						
Three Affiliated Tribes—Fort Berthold Reservation, Box 597, New Town, North Dakota 58763	176,539	141,231	35,308	53,262	42,610	10,652
Grant Number: 99-1-0062-55-120-02						
Turtle Mountain Band of Chippewa Indians, P.O. Box 900, Belcourt, North Dakota 58316	354,964	283,971	70,993	104,091	83,273	20,818
Grant Number: 99-1-0075-55-128-02						
United Tribes Tech. College, 3315 University Drive, Bismarck, North Dakota 58511	179,066	143,253	35,813	0	0	0
Grant Number: 99-1-0206-55-155-02						
North American Indian Cultural Centers, 1062 Triplette Boulevard, Akron, Ohio 44306	757,425	605,940	151,485	0	0	0
Grant Number: 99-1-3349-55-242-02						
Caddo Tribe of Oklahoma, P.O. Box 487, Binger, Oklahoma 73009	29,168	23,334	5,834	11,806	9,445	2,361
Grant Number: 99-1-1783-55-198-02						
Central Tribes of the Shawnee Area, Inc., 121 West 45th Street, Shawnee, Oklahoma 74801	84,501	67,601	16,900	47,044	37,635	9,409
Grant Number: 99-1-0038-55-102-02						
Cherokee Nation of Oklahoma, P.O. Box 948, Tahlequah, Oklahoma 74465	1,476,263	1,181,026	295,257	706,286	565,029	141,257
Grant Number: 99-1-0027-55-093-02						
Cheyenne-Arapaho Tribes, P.O. Box 67, Concho, Oklahoma 73022	198,254	158,603	39,651	88,410	70,728	17,682
Grant Number: 99-1-0048-55-111-02						
Chickasaw Nation of Oklahoma, P.O. Box 1548, Ada, Oklahoma 74820	395,801	316,641	79,160	180,695	144,556	36,139
Grant Number: 99-1-0042-55-105-02						
Choctaw Nation of Oklahoma, Drawer 1210, Durant, Oklahoma 74702-1210	806,071	644,857	161,214	317,410	253,928	63,482
Grant Number: 99-1-0041-55-104-02						
Citizens Band Potawatomi Indians, 1901 South Gordon Cooper Drive, Shawnee, Oklahoma 74801	199,760	159,808	39,952	148,341	118,673	29,668
Grant Number: 99-1-2202-55-206-02						
Comanche Indian Tribe of Oklahoma, P.O. Box 908, Lawton, Oklahoma 73502	164,396	131,517	32,879	114,275	91,420	22,855
Grant Number: 99-1-3150-55-228-02						
Creek Nation of Oklahoma, P.O. Box 580, Okmulgee, Oklahoma 74447	600,669	480,535	120,134	341,382	273,106	68,276
Grant Number: 99-1-0025-55-091-02						
Four Tribes Consortium of Oklahoma, P.O. Box 1193, Anadarko, Oklahoma 73005	75,352	60,282	15,070	35,418	28,334	7,084
Grant Number: 99-1-2728-55-220-02						
Inter-Tribal Council of N.E. Oklahoma, P.O. Box 1308, Miami, Oklahoma 74355	52,660	42,128	10,532	34,427	27,542	6,885
Grant Number: 99-1-1135-55-183-02						
Kiowa Tribe of Oklahoma, P.O. Box 369, Carnegie, Oklahoma 73015	213,451	170,761	42,690	81,741	65,393	16,348

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Grantee	PY 1992 title IV-A			PY 1991 II-B (summer 1992)		
	Total	Program	Cost pool	Total	Program	Cost pool
Grant Number: 99-1-0047-55-110-02						
Oklahoma Tribal Assistance Program, Inc., 1806 East 15th Street, P.O. Box 2841, Tulsa, Oklahoma 74101	348,476	278,781	69,695	187,544	150,035	37,509
Grant Number: 99-1-0072-55-125-02						
Osage Tribal Council, P.O. Box 147—Osage Agency Campus, Pawhuska, Oklahoma 74056	106,391	85,113	21,278	73,269	58,615	14,654
Grant Number: 99-1-0022-55-090-02						
Otoe-Missouria Indian Tribe of Okla., P.O. Box 62—Route 1, Red Rock, Oklahoma 74651	37,760	30,208	7,552	20,007	16,006	4,001
Grant Number: 99-1-2730-55-221-02						
Pawnee Tribe of Oklahoma, P.O. Box 470, Pawnee, Oklahoma 74058	24,019	19,215	4,804	15,591	12,473	3,118
Grant Number: 99-1-1785-55-200-02						
Ponca Tribe of Oklahoma, White Eagle—Box 2, Ponca City, Oklahoma 74601	56,632	45,306	11,326	48,052	38,842	9,210
Grant Number: 99-1-0029-55-094-02						
Seminole Nation of Oklahoma, P.O. Box 1498, Wewoka, Oklahoma 74884	151,612	121,290	30,322	64,167	51,334	12,833
Grant Number: 99-1-0051-55-113-02						
Tonkawa Tribe of Oklahoma, P.O. Box 70, Tonkawa, Oklahoma 74653	44,729	35,783	8,946	45,151	36,121	9,030
Grant Number: 99-1-1136-55-184-02						
United Urban Indian Council, 1501 Classen Blvd., Suite 100, Oklahoma City, Oklahoma 73106-5435	313,949	251,159	62,790	210,615	168,492	42,123
Grant Number: 99-1-2731-55-222-02						
Confed. Tribes of Siletz Indians, P.O. Box 549, Siletz, Oregon 97380	625,667	500,534	125,133	13,248	10,598	2,650
Grant Number: 99-1-3153-55-229-02						
Confed. Tribes of the Umatilla Ind. Res., P.O. Box 638, Pendleton, Oregon 97801	46,416	37,133	9,283	15,681	12,545	3,136
Grant Number: 99-1-3065-55-225-02						
Confederate Tribes of Warm Springs, P.O. Box C—Tenino Road, Warm Springs, Oregon 97761	97,953	78,362	19,591	40,735	32,588	8,147
Grant Number: 99-1-0256-55-157-02						
Organization of Forgotten Americans, P.O. Box 1257, 4509 South 6th Street, Suite 206, Klamath Falls, Oregon 97601-0276	455,577	364,462	91,115	3,965	3,172	793
Grant Number: 99-1-2732-55-223-02						
Council of Three Rivers, 200 Charles Street, Pittsburgh, Pennsylvania 15238	723,309	578,647	144,662	0	0	0
Grant Number: 99-1-0642-55-172-02						
United Am. Indians of the Del. Valley, 225 Chestnut Street, Philadelphia, Pennsylvania 19106	206,788	165,430	41,358	0	0	0
Grant Number: 99-1-0477-55-163-02						
Rhode Island Indian Council, 444 Friendship St., Providence, Rhode Island 02907	399,785	319,828	79,957	0	0	0
Grant Number: 99-1-0510-55-169-02						
Catawba Indian Nation, P.O. Box 957, Rock Hill, South Carolina 29731	276,216	220,973	55,243	10,995	8,796	2,199
Grant Number: 99-1-3516-55-249-02						
Cheyenne River Sioux Tribe, P.O. Box 837, Eagle Butte, South Dakota 57625	236,326	189,061	47,265	79,217	63,374	15,843
Grant Number: 99-1-0039-55-103-02						
Lower Brule Sioux Tribe, P.O. Box 187, Lower Brule, South Dakota 57548	59,891	47,913	11,978	13,879	11,103	2,776
Grant Number: 99-1-0073-55-126-02						
Oglala Sioux Tribe, P.O. Box G, Pine Ridge, South Dakota 57770	745,823	596,658	149,165	217,645	174,116	43,529
Grant Number: 99-1-0043-55-106-02						
Rosebud Sioux Tribe, Box 430, Rosebud, South Dakota 57570	441,775	353,420	88,355	110,670	88,536	22,134
Grant Number: 99-1-0044-55-107-02						
Sisseton-Wahpeton Sioux Tribe, P.O. Box 509, Agency Village, South Dakota 57262	172,063	137,650	34,413	46,863	37,490	9,373
Grant Number: 99-1-0045-55-108-02						
United Sioux Tribes Dev. Corp., P.O. Box 1193, Pierre, South Dakota 57501	730,863	584,690	146,173	61,103	48,882	12,221
Grant Number: 99-1-0165-55-144-02						
Native American Indian Association, 211 Union Street, Suite 932, Stahlman Building, Nashville, Tennessee 37501	352,277	281,822	70,455	0	0	0
Grant Number: 99-1-3515-55-248-02						
Alabama-Coushatta Indian Tribal Council, Route 3-Box 645, Livingston, Texas 77315	684,735	547,788	136,947	5,137	4,110	1,027
Grant Number: 99-1-1784-55-199-02						
Dallas Inter-Tribal Center, 209 East Jefferson Blvd., Dallas, Texas 75203-2690	281,009	224,807	56,202	0	0	0
Grant Number: 99-1-0078-55-131-02						
Tigua Indian Tribe, 119 South Old Pueblo Road—Ysleta Station, El Paso, Texas 79917	467,717	374,174	93,543	11,265	9,012	2,253
Grant Number: 99-1-2099-55-202-02						
Indian Center Employment Services, Inc., 1885 South Main, Suite 1, Salt Lake City, Utah 84115	429,346	343,477	85,869	0	0	0
Grant Number: 99-1-3517-55-250-02						
UTE Indian Tribe, P.O. Box 190, Fort Duchesne, Utah 84026	77,163	61,730	15,433	33,976	27,181	6,795
Grant Number: 99-1-0049-55-112-02						
Abenaki Self-Help Assn./N.H. Ind. Counc., Box 276, Swanton, Vermont 05488	114,335	91,468	22,867	0	0	0

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, PY 1992 TITLE IV-A AND PY 1991 II-B (SUMMER 1992) FINAL ALLOTMENTS FOR NATIVE AMERICANS, DECEMBER 11, 1991—Continued

Grantee	PY 1992 title IV-A			PY 1991 II-B (summer 1992)		
	Total	Program	Cost pool	Total	Program	Cost pool
Grant Number: 99-1-3064-55-224-02						
Mattaponi Pamunkey Monacan Consortium, Route 2—P.O. Box 360, West Point, Virginia 23181	248,137	198,510	49,627	1,532	1,226	306
Grant Number: 99-1-3227-55-236-02						
American Indian Community Center, East 905 Third Avenue, Spokane, Washington 99202	737,760	590,208	147,552	113,824	91,059	22,765
Grant Number: 99-1-1138-55-186-02						
Colville Confederated Tribes, P.O. Box 150, Nespelem, Washington 99155	209,289	167,431	41,858	48,215	38,572	9,643
Grant Number: 99-1-1726-55-192-02						
Lummi Indian Business Council, 2616 Kwina Road, Bellingham, Washington 98225	45,919	36,735	9,184	19,106	15,285	3,821
Grant Number: 99-1-2204-55-256-02						
N.W. Inter-Tribal Council, P.O. Box 115, Neah Bay, Washington 98357	47,649	38,119	9,530	31,543	25,234	6,309
Grant Number: 99-1-0069-55-174-02						
Puyallup Tribe of Indians, 2002 East 28th St., Tacoma, Washington 98404	168,970	135,176	33,794	19,196	15,357	3,839
Grant Number: 99-1-1137-55-185-02						
Seattle Indian Center, 611 12th Avenue South—Suite 300, Seattle, Washington 98144	442,645	354,116	88,529	0	0	0
Grant Number: 99-1-0511-55-170-02						
Western Wash. Ind. Empl. and Trng. Prog., 4505 Pacific Highway East, Suite C-1, Tacoma, Washington 98424	890,444	712,355	178,089	125,901	100,721	25,180
Grant Number: 99-1-1933-55-201-02						
Lac Courte Oreilles Tribal Governing Board, Route 2, Box 2700, Hayward, Wisconsin 54843	100,311	80,249	20,062	24,603	19,682	4,921
Grant Number: 99-1-0018-55-087-02						
Lac Du Flambeau Band of Lake Superior Chippewa, P.O. Box 67, Lac Du Flambeau, Wisconsin 54538	48,296	38,637	9,659	18,926	15,141	3,785
Grant Number: 99-1-1139-55-187-02						
Menominee Indian Tribe, P.O. Box 397, Keshena, Wisconsin 54135-0397	76,616	61,293	15,323	46,142	36,914	9,228
Grant Number: 99-1-0013-55-084-02						
Milwaukee Area Am. Ind. Manpower Counc., 634 West Mitchell Street, Milwaukee, Wisconsin 53204-3512	237,503	190,002	47,501	0	0	0
Grant Number: 99-1-0227-55-156-02						
Oneida Tribe of Indians of Wis., Inc., P.O. Box 365, Oneida, Wisconsin 54115-0365	210,547	168,438	42,109	30,551	24,441	6,110
Grant Number: 99-1-0015-55-085-02						
Stockbridge-Munsee Community, Route 1, Bowler, Wisconsin 54416	63,993	51,194	12,799	9,102	7,282	1,820
Grant Number: 99-1-0500-55-167-02						
Wisconsin Indian Consortium, P.O. Box 181, Odanah, Wisconsin 54861	94,073	75,258	18,815	25,685	20,548	5,137
Grant Number: 99-1-2207-55-207-02						
Wisconsin-Winnebago Business Committee, P.O. Box 667—127 Main Street, Black River Falls, Wisconsin 54615	204,249	163,399	40,850	14,600	11,680	2,920
Grant Number: 99-1-0019-55-088-02						
Shoshone/Arapahoe Tribes, P.O. Box 920, Fort Washakie, Wyoming 82514	230,123	184,098	46,025	68,853	55,082	13,771
Grant Number: 99-1-0050-55-252-02						
National Total	$63,000,000	$50,399,998	$12,600,002	$12,416,726	$9,934,983	$2,483,743

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303(a).

DATES: Request for copies must be received in writing on or before June 15, 1992. Once the appraisal of the records is complete, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for

the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designed for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending:

1. Department of Defense, Uniformed Services University of the Health Sciences (N1-330-91-2). Routine and facilitative records of USUHS, the military medical school.

2. Department of Agriculture, Forest Service (N1-95-92-1). Routine plans for the administration of the Volunteers Program.

3. Department of Agriculture, Food Safety and Inspection Service (N1-462-91-1). Records relating to meat and poultry inspection.

4. National Archives and Records Administration (N2-145-92-1). Routine audio recordings on new farm legislation accessioned from the Agriculture Stabilization and Conservation Service.

5. National Archives and Records Administration (N2-326-92-1). Incomplete, unidentified, poor quality motion picture production elements accessioned from the Atomic Energy Commission.

6. Department of Health and Human Services, Centers for Disease Control, Center for Chronic Disease Prevention and Health Promotion (N1-442-91-10). Comprehensive electronic records schedule.

7. Department of the Interior, Minerals Management Service (N1-473-91-1). Records used to monitor leasing operations and production.

8. Tennessee Valley Authority, Human Resources (N1-142-91-3). Raw wage and salary data collected for use in wage and salary conference negotiations.

9. Department of State, Bureau for Refugee Programs (N1-59-92-12). Personnel files of foreign national employees transferred from another agency.

Dated: April 24, 1992.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 92-10175 Filed 4-30-92; 8:45 am]

BILLING CODE 7515-01-M

Advisory Committee on Preservation; Meeting

Notice is hereby given that the National Archives Advisory Committee on Preservation, Ad Hoc Subcommittee on Analytical Image Processing in Art and Archives will meet on June 11 and 12, 1992. The meeting will be held from 10 a.m. to 5 p.m. on Thursday, June 11, 1992, in room 105 of the National Archives Building, Washington, DC, and from 9 a.m. to 4:30 p.m. on Friday, June 12, 1992, at the Smithsonian Institution Conservation Analytical Laboratory, Suitland, Maryland.

The agenda for the meeting will be:

1. Charters Monitoring System at the National Archives.

2. Roundtable on current work in image processing.

3. Image data under study at the Smithsonian's Conservation Analytical Laboratory.

4. State-of-the-art image analysis worldwide.

This meeting is open to the public. For further information, contact Alan Calmes on (202) 208-7893.

Notice of the meeting is made in accordance with the Federal Advisory Committee Act.

Dated: April 24, 1992.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 92-10176 Filed 4-30-92; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92-26]

NASA Advisory Council (NAC), History Advisory Committee (HAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, History Advisory Committee.

DATES: May 20, 1992, 9 a.m. to 4:30 p.m.; and May 21, 1992, 8:30 a.m. to 12:30 p.m.

ADDRESSES: Building 249, Room 114, Jet Propulsion Laboratory, Pasadena, CA 91109.

FOR FURTHER INFORMATION CONTACT: Dr. Roger D. Launius, History Division, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-8300.

SUPPLEMENTARY INFORMATION: The NAC History Advisory Committee was established to provide overall guidance to the NASA History Division on historical research and writing activities. The HAC, chaired by Dr. Arthur L. Norberg, is composed of seven members. The meeting will be open to the public up to the seating capacity of the room (approximately 20 persons including the committee members and other participants). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the participants.

TYPE OF MEETING: Open.

Agenda

May 20, 1992

- 9 a.m.—Opening Remarks.
- 9:15 a.m.—NASA History Publication Program.
- 10 a.m.—NASA History Program Strategic Plan.
- 11 a.m.—NASA History Contracting Process.
- 1:30 p.m.—NASA History Manuscript Prize.
- 2 p.m.—Jet Propulsion Laboratory History Program and Tour.
- 4:30 p.m.—Adjourn.

May 21, 1992

- 8:30 a.m.—Opening Remarks.
- 10 a.m.—Shuttle History and Simulator Tour.
- 12:30 p.m.—Adjourn.

Dated: April 27, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-10231 Filed 4-30-92; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON FINANCIAL INSTITUTION REFORM, RECOVERY, AND ENFORCEMENT

Meetings

Agency: National Commission on Financial Institution Reform, Recovery, and Enforcement.

Time and Date: 5 p.m.–7 p.m., May 6, 1992.

Place: Library of the Administrative Conference of the United States, suite 500, 2120 L Street, NW., Washington, DC 20037.

Status: This meeting will be open to the public.

Matters to be Considered: On Tuesday, April 21, 1992, the National Commission on Financial Institution Reform, Recovery and Enforcement convened a meeting pursuant to a notice published in the **Federal Register** on April 9, 1992 (57 FR 12346). The purpose of the meeting was to discuss organizational issues, including such topics as budget, staffing, structure, goals and objectives, and election of a chairperson.

In accordance with the Federal Advisory Committee Act (Public Law 92-463), the Commission hereby gives notice that it will reconvene the above referenced meeting from 5 p.m. to 7 p.m. on Wednesday, May 6, 1992 in Washington, DC for the purpose of continuing the meeting and considering any other such matters as may properly come before the Commission. Due to limited seating, persons wishing to attend should call the below listed contact persons in advance.

Contact Persons For More Information: Larry G. Hicks, (202) 632-1556, or Linda R. Johnson , (202) 632-1556.

Larry G. Hicks,

Acting Director of Administration.

[FR Doc. 92-10160 Filed 4-30-92; 8:45 am]

BILLING CODE 6820-PD-M

NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL

Meeting

AGENCY: National Commission on Judicial Discipline and Removal.

ACTION: Public Hearing.

Time and Place: Notice is hereby given in the public interest that a public hearing of the National Commission on Judicial Discipline and Removal will occur on May 15, 1992, in Washington, DC. The hearing will commerce at 9:30 a.m., will break for lunch (from 12 noon until 1:30 p.m.) and will continue until approximately 4:30 p.m.

The precise location of the hearing will be room 226, Dirksen Senate Office Building, U.S. Senate, Washington, DC.

Status and Authority: The entire hearing will be open to the public. Lunch will be closed to the public. The public hearing will be the second one for the National Commission, a body composed of thirteen members appointed by the Speaker of the House, the President *pro tem* of the Senate, the President, the Chief Justice of the United States and the Conference of Chief Justices. The National Commission, established by Public Law 101-650 (title IV), is assigned three statutory duties. The first is to investigate and study the problems and issues involved in the tenure (including discipline and removal) of Article III (appointed to serve for life) Federal judges. The second is to evaluate the advisability of proposing alternatives for current arrangements with respect to such problems and issues, including alternatives for the discipline or removal of Federal judges that would require constitutional amendments. Finally, the Commission is required to prepare and submit a report to the Congress, the Chief Justice and the President setting forth a detailed statement of its findings and conclusions together with any recommendations for legislative and administrative actions as are considered appropriate. The Commission is not authorized to consider the factual underpinnings of specific complaints against Federal judges.

Ordinarily the provisions of the Government in the Sunshine Act are not applicable to legislative or judicial agencies. Nonetheless, since the Commission is composed of representatives of all three branches of the Federal government, good faith attempts will be made to follow the spirit of the law. This good faith commitment to open meetings and hearings is incorporated in the Commission's By-laws.

Matters to be Considered: The Commission will receive testimony about the problems and issues involved in the tenure of Federal judges. The inquiry will deal in general with three subjects: first, the role of the Senate in the trial and removal from office of Federal Judges; second, judicial discipline as administered by the Federal judicial branch of government; and third, the role of the executive branch in impeachment and judicial discipline matters. During the morning hours, the Commission will focus on the congressional role in the impeachment process. During the afternoon session, the Commission will receive testimony about judicial discipline and disability machinery and procedures within the Federal judicial branch.

Members of the public who wish to testify are urged to contact the Commission.

Contact Persons for Further Information: For more information, contact Michael J. Remington or William J. Weller at the National Commission on Judicial Discipline and Removal, suite 690, 2100 Pennsylvania Ave., NW., Washington, DC. 20037-3202; or call (202) 254-8169.

In order to schedule testimony, contact Vera Karamardian at the Commission offices at (202) 254-8170.

Supplementary Information: A written transcript of the hearing will be prepared and made available for public inspection during regular working hours at the Commission offices within approximately thirty working days of the hearing.

Michael J. Remington,

Director.

[FR Doc. 92-10166 Filed 4-30-92; 8:45 am]

BILLING CODE 6820-DB-M

Meeting

AGENCY: National Commission on Judicial Discipline and Removal.

ACTION: Public Meeting.

SUMMARY: Notice is hereby given in the public interest and pursuant to the Federal Advisory Committee Act that a public meeting of the National Commission on Judicial Discipline and Removal will be held on May 14, 1992, in Washington, DC. The precise location of the meeting will be room 226, Dirksen Senate Office Building, First Street and Constitution Avenue NW., Washington, DC 20510. The meeting will convene at 1:30 a.m and will adjourn at approximately 5 p.m.

AUTHORITY: The meeting will be the third one for the National Commission, a body composed of thirteen members appointed by the Speaker of the House, the President *pro tem* of the Senate, the President, the Chief Justice of the United States and the Conference of Chief Justices. The National Commission, established by Public Law 101-650 (Title IV), is assigned three statutory duties. The first is to investigate and study the problems and issues involved in the tenure (including discipline and removal) of Article III (appointed to serve for life) Federal judges. The second is to evaluate the advisability of proposing alternatives to current arrangements with respect to such problems and issues, including alternatives for the dicipline or removal of Federal judges that would require constitutional amendments. Finally, the Commission is required to prepare and submit a report to the Congress, the Chief Justice and the President setting forth a detailed statement of its findings and conclusions together with any recommendations for legislative and administrative actions as are considered appropriate. The Commission is not authorized to consider the factual

underpinnings of specific complaints against Federal judges.

Ordinarily the provisions of the Federal Advisory Commmittee Act are not applicable to legislative or judicial agencies. Nonetheless, since the Commission is composed of representatives of all three branches of the Federal government, good faith attempts will be made to follow the spirit of the law. This good faith commitment to open meetings is incorporated in the Commission's By-laws.

STATUS: The meeting will be open to the public. A portion of the meeting may be held in executive session to consider personnel matters involving privacy interests.

MATTERS TO BE CONSIDERED: The Commission will be discussing the members reactions to testimony submitted during its public hearing held on May 1, 1992, and plans for research projects to be undertaken during the next several months, as well as organizational and administrative matters.

CONTACT PERSONS FOR FURTHER INFORMATION: Contact Michael J. Remington or William J. Weller at the National Commission of Judicial Discipline and Removal, suite 690, 2100 Pennsylvania Avenue NW., Washington, DC 20037-3202; or call (202) 254-8169.

SUPPLEMENTARY INFORMATION: Minutes of the meeting will be available for public inspection during regular working hours at the Commission offices approximately thirty working days following the meeting.

Michael J. Remington,

Director.

[FR Doc. 92-10167 Filed 4-30-92; 8:45 am]

BILLING CODE 6820-DB-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Arts Education Initiative Section) to the National Council on the Arts will be held on May 19-20, 1992 from 9 a.m.-6 p.m. and May 21 from 9 a.m.-4:30 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Ave NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 21 from 3 p.m.-4:30 p.m. The topic will be policy discussion.

The remaining portions of this meeting on May 19-20 from 9 a.m.-6 p.m. and May 21 from 9 a.m.-3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-10172 Filed 4-30-92; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Solo Theater Artists' Fellowships Section) to the National Council on the Arts will be held on May 19-20, 1992 from 9:30 a.m.-6 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 19 from 9:30 a.m.-10:30 a.m. The topics will be opening remarks and application review criteria.

The remaining portions of this meeting on May 19 from 10:30 a.m.-6 p.m. and May 20 from 9:30 a.m.-6 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-10173 Filed 4-30-92; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to the OMB for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: 10 CFR part 19, "Notices, Instructions, and Reports to Workers: Inspections".

3. The form number if applicable: Not applicable.

4. How often the collection is required: As necessary in order that adequate and timely reports of radiation exposure be made to individuals involved in NRC-licensed activities.

5. Who will be required or asked to report: Licensees authorized to receive, possess, use, or transfer material licensed by the NRC.

6. An estimate of the number of responses: 648,030 annually.

7. An estimate of average burden per response: 7.5 minutes.

8. An estimate of the total number of hours needed to complete the requirement or request: 81,060.

9. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

10. Abstract: Title 10 of the Code of Federal Regulations, part 19, requires licensees to advise workers on an annual basis of any radiation exposure they may have received as a result of NRC-licensed activities or when certain conditions are met. These conditions apply during termination of the worker's employment, at the request of a worker, former worker, or when the worker's employer (the NRC licensee) must report radiation exposure information on the worker to the NRC.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150-0044), NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 22nd day of April 1992.

For the Nuclear Regulatory Commission

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 92-10133 Filed 4-30-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-461]

Illinois Power Company, et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of an Exemption and an amendment to Facility Operating License No. NPF-62, issued to the Illinois Power Company (IP), and Soyland Power Cooperative, Inc., (the licensee), for operation of the Clinton Power Station, Unit No. 1 (CPS), located in Harp Township, DeWitt County, Illinois.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from requirements contained in section III.B.3 of appendix J to 10 CFR part 50, which states, in part, that "* * * the combined leakage rate for all [containment] penetrations and valves subject to Type B and C tests shall be less than 0.60 La."

The proposed action is in accordance with the licensee's request for an exemption and an amendment to Facility Operating License No. NPF-62 dated December 23, 1991.

The Need for the Proposed Action

The proposed Exemption and an amendment to the license and a change to the Technical Specifications (TS) is needed since the strict application of the requirements of section III.B.3 of appendix J to 10 CFR part 50, regarding local leak rate testing of the Reactor Core Isolation Cooling (RCIC) vacuum breaker line associated with containment penetration 1MC-44 and the leakage rates associated with the valve packing and body-to-bonnet seal of test boundary valve 1E51-F374, is not necessary to achieve the underlying purpose of the rule and would impose undue hardships to the licensee.

Testing of the test boundary valve 1E51-F374, which is located outside of containment in the RCIC vacuum breaker line associated with containment penetration 1MC-44, would necessitate erecting and disassembling temporary scaffolding over the suppression pool each refueling outage, resulting in additional radiation exposure, additional generation of radioactive waste, and increasing the potential for introducing foreign objects into the suppression pool. This valve and its associated potential leakage pathways are included in the Integrated Leak Rate Testing (ILRT) boundary, and thus, any leakage through these pathways will be included in the total leakage rate measured during an ILRT.

Environmental Impacts of the Proposed Action

The NRC staff has determined that granting the proposed exemption would not significantly increase the probability or amount of expected containment leakage and that containment integrity would thus be maintained.

Consequently, the probability of accidents would not be increased, nor would the post-accident radiological releases be greater than previously determined. Neither would the proposed exemption otherwise effect radiological plant effluents. Therefore, the NRC staff concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves a change to surveillance and testing requirements. It does not effect nonradiological plant effluents and has no other environmental impact. Therefore, the NRC staff concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the NRC staff concluded that there are no significant environmental effects associated with the proposed action, any alternatives would have either no or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts attributed to the facility but would result in additional costs to the licensee that far outweigh the benefits associated with additional testing.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement Related to the Operation of Clinton Power Station, Unit 1", dated May 1982.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The NRC staff has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated December 23, 1991, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 27th day of April, 1992.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

Acting Director, Project Directorate III-3, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-10226 Filed 4-30-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-387 and 50-388]

Pennsylvania Power and Light Co. and Allegheny Electric Cooperative, Inc.; Susquehanna Steam Electric Station, Units 1 and 2; Notice of Partial Withdrawal of Application for Amendments To Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has granted the request for Pennsylvania Power and Light Company (PP&L) and Allegheny Electric Cooperative, Inc., (the licensees) to withdraw a portion of their November 4, 1991 application, for proposed amendments to Facility Operating Licenses DPR-14 and DPR-22 for the Susquehanna Steam Electric Station, Units 1 and 2, located in Luzerne County, Pennsylvania.

The proposed amendments involved changes to the Technical Specifications (TS) section 6.0, "Administrative Controls," to reflect organizational changes within the Nuclear Department Organization of PP&L made as a result of an Operational Effectiveness Review.

On March 4, 1992, the licensee submitted a letter to the NRC requesting withdrawal of a proposed editorial change. PP&L requests the superintendent's "deputy" remain the same in section 6.2.2.f.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing which was published in the **Federal Register** on February 5, 1992 (57 FR 4492).

For further details with respect to this action, see the application for amendment dated November 4, 1991 and the licensee's letter dated March 4, 1992, which withdrew this portion of the editorial change of the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Rockville, Maryland, this 22d day of April 1992.

For the Nuclear Regulatory Commission.

James J. Raleigh,

Project Manager, Project Directorate I-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-10131 Filed 4-30-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-327]

Tennessee Valley Authority, Sequoyah Nuclear Plant, Unit I; Notice of Withdrawal of an Amendment Request To Facility Operating License

The U.S. Nuclear Regulatory Commission (NRC) has approved the withdrawal of a Technical Specification (TS) amendment request by the Tennessee Valley Authority (TVA or the licensee) for an amendment to Facility Operating License No. DPR-77, issued to the Sequoyah Nuclear Plant, Unit 1. The plant is located in Soddy-Daisy, Tennessee. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on February 27, 1992 (57 FR 6748).

The application being withdrawn was originally submitted by an amendment request dated February 20, 1992. The licensee requested temporary changes related to the Reactor Coolant System (RCS) resistance temperature detector (RTD) allowable values (overtemperature differential temperature, overpower differential temperature, loop differential temperature) and the channel calibration requirements for the RCS RTDs. The proposed change was needed due to test instrument errors that occurred during Unit 1 startup following the Cycle 6 refueling outage that invalidated the RCS RTD sensor calibration. By letter dated April 13, 1992, the licensee withdrew its license amendment application.

For further details with respect to this action, see (1) the application for amendment dated February 20, 1992, (2) the licensee's letter of withdrawal dated April 13, 1992, and (3) the staff letter dated April 23, 1992.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland this 23rd day of April 1992.

For the Nuclear Regulatory Commission.

David E. LaBarge,

Senior Project Manager, Project Directorate II-4, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-10132 Filed 4-30-92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30637; File No. SR-NASD-92-1]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Market Maker Registration in Mergers or Acquisitions

April 24, 1992.

On January 21, 1992,[1] the National Association of Securities Dealers, Inc. ("NASD" or "Association") submitted to the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[2] and Rule 19b-4 thereunder.[3] The proposal amends sections 1(d) and 8(b) of part VI of Schedule D to the NASD By-Laws[4] to permit same-day registration for market makers in merger or acquisition situations.

Notice of the proposed rule change, together with its terms of substance was provided by the issuance of a Commission release (Securities Exchange Act Release No. 30479, March 16, 1992) and by publication in the **Federal Register** (57 FR 10052, March 23, 1992). No comments were received on the proposal. This order approves the proposed rule change.

The rule change approved herein amends Schedule D of the NASD's By-Laws to permit immediate on-line registration of market makers in situations where a merger or acquisition has been previously announced to the public. The rule allows a market maker registered in one of the two affected companies to register in the other company on a same-day basis. Current

[1] On February 4 and March 2, 1992, the NASD filed, respectively, Amendments 1 and 2 to the rule change approved herein. The amendments clarify that a market maker must have withdrawn in one of the affected securities prior to the public announcement of a merger or acquisition, in order to qualify for an excused withdrawal when it seeks to reregister in the security.

[2] 15 U.S.C. 78s(b)(1) (1988).

[3] 17 CFR 240.19b-4 (1991).

[4] *NASD Securities Dealers Manual*, Schedule D of the By-Laws, part VI, sections 1(d) and 8(b), CCH, ¶¶ 1818 and 1824.

registration requirements contained in Schedule D include a one-day waiting period to avoid a form of "fair-weather" market making. The one-day provision was implemented as a cooling-off period to prevent market makers from registering in a stock immediately after favorable news is announced or with the intent to execute a single customer order, with the possibility of withdrawing soon thereafter.

The NASD believes that the situation where a merger or acquisition is publicly announced and it is anticipated that there will be only one surviving entity is different. Market makers in one security may wish to register immediately in the second company in order to more effectively manage the risk of their positions in the first entity. The NASD believes that the result is an increase in liquidity and depth provided in both issues. If a market maker is already registered in one of the two securities, the NASD believes that in these narrowly drawn situations, an immediate on-line registration as a NASDA market maker is appropriate.

Further, the rule approved herein allows a market maker that has withdrawn from an issue prior to a publicly announced merger or acquisition and who wishes to reregister in the issue to have the withdrawal considered "excused," as long as the market maker has remained registered in the other issue. The 20-day prohibition against reregistering in the security contained in section 9 of part VI of Schedule D of the By-Laws,[5] therefore, will not apply to market makers that have withdrawn from an issue and subsequently wish to reregister in the security pursuant to the same-day registration procedures. The 20-day prohibition period for market makers that voluntarily withdraw from NASDAQ issues was promulgated to prevent market makers from dropping out of issues during turbulent markets and reentering the issues immediately thereafter. The NASD believes that merger and acquisition situations do not present similar opportunities for fair-weather market making and that granting an excused withdrawal is appropriate in this narrowly construed situation.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A(b)(6) of the Act.[6] Section 15A(b)(6) of the Act requires, among other things, that the NASD's rules be designed "to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market * * *." The Commission believes that the instant rule change will enable market makers to facilitate liquidity and depth in the trading of issues of companies that are involved in mergers or acquisitions. For this reason and for the reasons stated above, the Commission believes that the proposed rule change satisfies the requirements of section 15A(b)(6) of the Act.

It is therefore Ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-10246 Filed 4-30-92; 8:45 am]

BILLING CODE 8010-01-M

[5] NASD Securities Dealers Manual, Schedule D of the By-Laws, Part VI, Section 9, CCH, ¶ 1825.

[6] 15 U.S.C. 78o-3 (1988).

[7] 17 CFR 200.30-3(a)(12) (1991).

[Release No. 34-30636; File No. SR-PSE-92-06]

Self-Regulatory Organizations: Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Stock Exchange, Inc. Relating to Procedures for Exchange Committees

April 24, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 18, 1992 the Pacific Stock Exchange, Inc. (PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Term of Substance of the Proposed Rule Change

The PSE seeks to amend its Rule 11.2(a), Committees of the Exchange, Committee Procedures, the follows: [deletions bracketed; additions italicized]

Rule 11.2(a). Except as otherwise provided in the Constitution, the Rules, or a resolution of the Board, each committee shall determine its own time and manner of conducting its meetings. The vote of a majority of the members of the committee present at a meeting at which a quorum is present shall be the act of the committee. Committees may act by written consent of [all] a majority of the members of the committee.

II. Self-Regulatory Oerganization's Statement of the Purpose of, and Statutory Basis for, the Purposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B,. and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Constitution of the PSE, Article II, Government, provides that the Board of Governors may act on any matter within its jurisdiction, "by written consent of a majority of all Governors".

The purpose of this filing is to make the procedures for taking action at the committee level consistent with the procedures for taking action at the Board level. Currently, Rule 11.2(a) requires unanimous consent by all committee members before any action may be taken. This requirement proves burdensome in practice and on occasion prevents action being taken due to the unavailability of a committee member or members.

A recent amendment to the Certificate of Incorporation of the PSE permits an action to be taken by written consent of a majority of committee members. This amendment was submitted to the members of the PSE and was approved by three-fourths of the members voting, which was not less than a majority of the total membership on January 23, 1992.[1]

[1] See letter From Myriam F. Cotton, Office of the General Counsel, PSE, to Laurie Petrell, Division of Market Regulation, SEC, dated April 23, 1992. Procedurally, pursuant to the PSE's Certificate of Incorporation, the Exchange's Board of Governors may amend the Certificate of Incorporation subject to the approval of affirmative vote of at least three-fourths of the members of the Exchange voting but not less than a majority of the members of the Exchange. The amendment to the PSE's Certificate

Continued

The proposed rule change is consistent with section 6(b)(3) under the Act in that it is designed to assure a fair representation of members in the administration of Exchange affairs, and with section 6(b)(5) in that it is designed to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change is concerned solely with the administration of the exchange, it has become effective pursuant to section 19(b)(3)(A)(iii) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-92-06 and should be submitted by May 22, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-10248 Filed 4-30-92; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8475]

Issuer Delisting; Application To Withdraw From Listing and Registration; (Continental Airlines, Inc., 11% Subordinated Debentures Due 1996)

April 27, 1992.

Continental Airlines, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, it and substantially all of its subsidiaries and certain affiliates (collectively, the "Debtors") filed for reorganization under chapter 11 of the Federal Bankruptcy Code on December 3, 1990, in the United States Bankruptcy Court for the District of Delaware. On February 6, 1992, the Debtors filed a proposed plan of reorganization (the "Proposed Plan") with the Bankruptcy Court. The Company stated that the Proposed Plan has the support of the Official Committee of Unsecured Creditors appointed by the Bankruptcy Court in the chapter 11 case.

According to the Company, the Proposed Plan provides for the elimination of the Debentures without any payment or other consideration to the holders of such securities. Although there may be changes to various features of the Proposed Plan, management believes the possibility is remote that any plan will result in the Debentures receiving any substantial value. Pursuant to the Bankruptcy Code, such securities are not entitled to any payment until General Unsecured Creditors are paid in full. The Company states that General Unsecured Creditors will be paid only a fraction of their allowed claims.

Any interested person may, on or before May 18, 1992, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-10249 Filed 4-30-92; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-7969]

Issuer Delisting; Application To Withdraw From Listing and Registration; (Continental Airlines Holdings, Inc., Common Stock, $.01 Par Value; 10% Exchangeable Subordinated Debentures Due 2005)

April 27, 1992.

Continental Airlines Holdings, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw (1) its Common Stock, $.01 Par Value, from listing and registration on the American Stock Exchange, Inc. ("Amex") and the Pacific Stock Exchange, Inc. ("PSE"), and (2) its 10% Exchangeable Subordinated Debentures due 2005 from listing and registration on the Amex.

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

Accordingly to the Company, it and substantially all of its subsidiaries (collectively, the "Debtors") filed for reorganization under Chapter 11 of the Federal Bankruptcy Code on December 3, 1990, in the United States Bankruptcy Court for the District of Delaware. On February 6, 1992, the Debtors filed a proposed plan of reorganization (the "Proposed Plan") with the Bankruptcy Court. The Proposed Plan has the support of the Official Committee of

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of Incorporation is included in Exhibit A to File No. SR-PSE-92-06 which can be obtained at the places specified in Item IV.

Unsecured Creditors appointed by the Bankruptcy Court in the Chapter 11 case.

The Company states that the Proposed Plan provides for the cancellation of the Common Stock and the elimination of the Subordinated Debentures without any payment or other consideration of the holders of such securities. Although there may be changes to various feature of the Proposed Plan, management believes the possibility is remote that any plan will result in the Common Stock or Subordinated Debentures receiving any substantial value. Pursuant to the Bankruptcy Code, such securities are not entitled to any payment until General Unsecured Creditors are paid in full. The Company states that General Unsecured Creditors will be paid only a fraction of their allowed claims.

Any interested person may, on or before May 18, 1992, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-10250 Filed 4-30-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25525]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

April 24, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 18, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The AES Corporation (31-866)

The AES Corporation ("AES"), 1001 North Nineteenth Street, Arlington, Virginia 22209, has filed an application for an order under section 3(a)(5) seeking an exemption from all provisions of the Act, except section 9(a)(2).

AES is a publicly-held Delaware corporation principally engaged in the development, ownership, operation and maintenance of cogeneration power projects. Through its subsidiaries, AES currently has majority ownership or leasehold interests in various cogeneration facilities in the United States, all of which are qualifying facilities under the Public Utility Regulatory Policies Act of 1978. Neither AES nor any corporation owned or controlled by AES currently is a "public-utility company", "holding company" or an "affiliate" of a holding company within the meaning of the Act.

Applied Energy Services Electric Limited ("AES Electric"), AES's wholly owned British subsidiary company, has entered into a joint venture agreement with Tractebel UK Limited, a British subsidiary company of a Belgian company, to form a British partnership, NIGEN Limited ("Partnership"), which will acquire and operate two existing electric power plants in Northern Ireland ("Ireland Facilities"). AES, through its ownership of voting securities of AES Electric, and AES Electric itself, as a partner of the Partnership which will own and operate the Ireland Facilities, will be "holding companies" as defined in section 2(a)(7)(A) of the Act and will thus be subject to regulation under the Act, unless an exemption is obtained.

AES states that it will not become a company the principal business of which within the United States is that of a public utility, after the acquisition of the Ireland Facilities, and it will not derive any material part of its income, directly or indirectly, from any one or more subsidiary companies the principal business of which within the United States is that of a public utility.

Appalachian Power Company (70-5885)

Appalachian Power Company ("Appalachian"), 40 Franklin Road, SW., Roanoke, Virginia 24011, an electric public-utility subsidiary company of American Electric Power, Inc., a registered holding company, has filed a post-effective amendment to its application-declaration under sections 9(a), 10 and 12(d) of the Act.

By order dated September 30, 1976 (HCAR No. 19698), Appalachian was authorized to enter into an agreement of sale ("Agreement") with Putnam County, West Virginia ("County") concerning the construction, installation, financing and sale of pollution control facilities ("Facilities") at Appalachian's John E. Amos Plant. Under the Agreement, the County may issue and sell its pollution control revenue bonds ("Revenue Bonds") or pollution control refunding bonds ("Refunding Bonds"), in one or more series, and deposit the proceeds with the trustee ("Trustee") under an indenture ("Indenture") entered into between the County and the Trustee. The proceeds are applied by the Trustee to the payment of the costs of construction of the Facilities, or in the case of proceeds from the sale of Refunding Bonds, to the payment of the principal, premium (if any) and/or interest on Revenue Bonds to be refunded.

Appalachian was also authorized to convey an undivided interest in a portion of the Facilities to the County, and to reacquire that interest under an installment sales arrangement requiring Appalachian to pay as the purchase price semi-annual installments in such an amount, together with other monies held by the Trustee under the Indenture for that purpose, as to enable the County to pay, when due, the interest and principal on the Revenue Bonds. The County has issued and sold two series of bonds in connection with the financing of the Facilities.

It is now proposed that the County issue and sell its Series C Refunding Bonds in the aggregate principal amount of up to $30 million, the proceeds of which will be used to provide for the early redemption at par of the aggregate principal amount of the entire $30 million aggregate principal amount of outstanding Series A Revenue Bonds, 7¾%, October 1, 2006. The Series C Refunding Bonds will be issued under

and secured by the Indenture and a second supplemental indenture, will bear interest semi-annually at a rate of interest not exceeding 7½% per annum and will mature at a date not more than thirty years from the date of issuance. Any discount from the initial public offering price of the Series C Refunding Bonds shall not exceed 5% of their principal amount and the initial public offering price shall not be less than 95% of such amount. Appalachian will not enter into the proposed refunding transactions unless the estimated present value savings derived from the net difference between interest payments on a new issue of comparable securities and on the securities to be refunded is, on an after-tax basis, greater than the present value of all redemption and issuing costs, assuming an appropriate discount rate. The discount rate used shall be the estimated after-tax interest rate on the Series C Refunding Bonds to be issued. Appalachian may pay fees to provide some form of credit enhancement in connection with the issuance and sale of the Series C Refunding Bonds.

Ohio Power Company (70-5886)

Ohio Power Company ("OPCo"), 301 Cleveland Avenue, SW., Canton, Ohio 44701, an electric pubic-utility subsidiary company of American Electric Power, Inc., a registered holding company, has filed a post-effective amendment to its application-declaration under sections 9(a), 10 and 12(d) of the Act.

By order dated August 31, 1976 (HCAR No. 19063), OPCo was authorized to enter into an agreement of sale ("Agreement") with Marshall County, West Virginia ("County") concerning the construction, installation, financing and sale of pollution control facilities ("Facilities") at OPCo's Mitchell Generating Station. Under the Agreement, the County may issue and sell its pollution control revenue bonds ("Revenue Bonds") or pollution control refunding bonds ("Refunding Bonds"), in one or more series, and deposit the proceeds with the trustee ("Trustee") under an indenture ("Indenture") entered into between the County and the Trustee. The proceeds are applied by the Trustee to the payment of the costs of construction of the Facilities, or in the case of proceeds from the sale of Refunding Bonds, to the payment of the principal, premium (if any) and/or interest on Revenue Bonds to be refunded.

OPCo was also authorized to convey an undivided interest in a portion of the Facilities to the County, and to reacquire that interest under an installment sales arrangement requiring OPCo to pay as the purchase price semi-annual installments in such an amount, together with other monies held by the Trustee under the Indenture for that purpose, as to enable the County to pay, when due, the interest and principal on the Revenue Bonds. The County has issued and sold two series of bonds in connection with the financing of the Facilities.

It is now proposed that the County issue and sell its Series C Refunding Bonds in the aggregate principal amount of up to $50 million, the proceeds of which will be used to provide for the early redemption at par of the aggregate principal amount of the entire $50 million aggregate principal amount of outstanding Series A Revenue Bonds, 8¼%, September 1, 2006. The Series C Refunding Bonds will be issued under and secured by the Indenture and a second supplemental indenture, will bear interest semi-annually at a rate of interest not exceeding 7¾% per annum and will mature at a date not more than thirty years from the date of issuance. Any discount from the initial public offering price of the Series C Refunding Bonds shall not exceed 5% of their principal amount and the initial public offering price shall not be less than 95% of such amount. OPCo will not enter into the proposed refunding transactions unless the estimated present value savings derived from the net difference between interest payments on a new issue of comparable securities and on the securities to be refunded is, on an after-tax basis, greater than the present value of all redemption and issuing costs, assuming an appropriate discount rate. The discount rate used shall be the estimated after-tax interest rate on the Series C Refunding Bonds to be issued. Appalachian may pay fees to provide some form of credit enhancement in connection with the issuance and sale of the Series C Refunding Bonds.

Appalachian Power Company (70-6171)

Appalachian Power Company ("Appalachian"), 40 Franklin Road, SW., Roanoke, Virginia 24011, an electric public-utility subsidiary company of American Electric Power, Inc., a registered holding company, has filed a post-effective amendment to its application-declaration under sections 9(a), 10 and 12(d) of the Act.

By order dated June 30, 1978 (HCAR No. 20610), Appalachian was authorized to enter into an agreement of sale ("Agreement") with Mason County, West Virginia ("County") concerning the construction, installation, financing and sale of pollution control facilities ("Facilities") at Appalachian's Philip Sporn and Mountaineer Plants. Under the Agreement, the County may issue and sell its pollution control revenue bonds ("Revenue Bonds") or pollution control refunding bonds ("Refunding Bonds"), in one or more series, and deposit the proceeds with the trustee ("Trustee") under an indenture ("Indenture") entered into between the County and the Trustee. The proceeds are applied by the Trustee to the payment of the costs of construction of the Facilities, or in the case of proceeds from the sale of Refunding Bonds, to the payment of the principal, premium (if any) and/or interest on Revenue Bonds to be refunded.

Appalachian was also authorized to convey an undivided interest in a portion of the Facilities to the County, and to reacquire that interest under an installment sales arrangement requiring Appalachian to pay as the purchase price semi-annual installments in such an amount, together with other monies held by the Trustee under the Indenture for that purpose, as to enable the County to pay, when due, the interest and principal on the Revenue Bonds. The County has issued and sold eight series of bonds in connection with the financing of the Facilities.

It is now proposed that the County issue and sell its Series I Refunding Bonds in the aggregate principal amount of up to $40 million, the proceeds of which will be used to provide for the early redemption at a rate no greater than 101% of the aggregate principal amount of the entire $40 million aggregate-principal amount of outstanding series A Revenue Bonds, 7¾%, July 1, 2006. The Series I Refunding Bonds will be issued under and secured by the Indenture and an eighth supplemental indenture, will bear interest semi-annually at a rate of interest not exceeding 7½% per annum and will mature at a date not more than thirty years from the date of issuance. Any discount from the initial public offering price of the Series I Refunding Bonds shall not exceed 5% of their principal amount and the initial public offering price shall not be less than 95% of such amount.

Appalachian will not enter into the proposed refunding transactions unless the estimated present value savings derived from the net difference between interest payments on a new issue of comparable securities and on the securities to be refunded is, on an after-tax basis, greater than the present value of all redemption and issuing costs, assuming an appropriate discount rate. The discount rate used shall be the estimated after-tax interest rate on the

Series I Refunding Bonds to be issued. Appalachian may pay fees to provide some form of credit enhancement in connection with the issuance and sale of the Series I Refunding Bonds.

Gulf Power Company (70–7840)

Gulf Power Company ("Gulf"), 500 Bayfront Parkway, Pensacola, Florida 32501, an electric public-utility subsidiary of The Southern Company, a registered holding company, has filed a post-effective amendment under sections 6(a) and 7 of the Act and Rules 50 and 50(a)(5) thereunder to its application-declaration originally filed under sections 6(a), 7, 9(a), 10 and 12(c) of the Act and Rules 50 and 50(a)(5) thereunder.

By order dated December 3, 1991 (HCAR No. 25418) ("December Order"), the Commission authorized, among other things, Gulf Power's proposal to issue and sell on or before September 30, 1993, up to $125 million of first mortgage bonds ("Bonds") under the alternative competitive bidding procedures authorized in the Statement of Policy dated September 2, 1982 (HCAR No. 22623). In the December Order the Commission also reserved jurisdiction over, among other things, Gulf's issuance and sale of up to $125 million of Bonds under an exception from competitive bidding.

Gulf Power now requests authorization with respect to the Bonds, whether issued by the alternative competitive bidding procedures or under an exception from competitive bidding, to: (i) Increase the amount it is authorized to issue and sell from $125 million to $150 million and (ii) to extend the maximum maturity of the Bonds from thirty years to forty years.

By orders dated February 28, 1992 (HCAR No. 25480) and April 23, 1991 (HCAR No. 25301), the Commission also authorized, among other things, Gulf to enter into a loan agreement or installment sale agreement relating to the issuance of $8.93 and $21.2 million, respectively, of pollution control revenue bonds ("Revenue Bonds") by various counties in Florida and Mississippi for the purpose of financing or refinancing the costs of pollution control and sewage and solid waste disposal facilities at one or more of Gulf's electric generating plants or other facilities. The Commission reserved jurisdiction, pending completion of the record, over the issuance of up to an additional $69.87 million of such Revenue Bonds.

Gulf now further proposes that the maximum maturity of such Revenue Bonds be extended from thirty years to forty years, and that their mandatory redemption sinking fund provisions be extended accordingly.

General Public Utilities Corp., et al. (70–7942)

General Public Utilities Corp. ("GPU"), a registered holding company, General Portfolios Corp. ("GPC"), a wholly owned subsidiary company of GPU, Energy Initiatives, Inc. ("EII"), a wholly owned subsidiary company of GPC, Geddes Cogeneration Corp. ("Geddes"), a wholly owned subsidiary of EII, and Onondaga Cogeneration Limited Partnership (the "Partnership"), a wholly owned subsidiary of Geddes and a New York limited partnership (collectively, "Applicants"), all located at One Gatehall Drive, Parsippany, New Jersey 07054, have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 45 and 50(a)(5) thereunder.

EII, through Geddes, has acquired, for $1.4 million, all of the partnership interests in the Partnership, which is engaged in the development of a proposed 79.9 MW gas-fired congeneration facility located in Geddes, New York ("Project"). The Project has been certified as a qualifying cogeneration facility under the Public Utility Regulatory Policies Act of 1978 and regulations thereunder. Geddes currently is the sole general partner of the Partnership. A limited partnership interest is temporarily being held by an individual nominee, P.C. Mezey, chairman of EEI, pending the completion of construction financing for the Project. At the closing of Project financing, Mezey, who was assigned a 0.1% in the Partnership from Geddes, will relinquish his interest in the Partnership.

Construction of the Project, estimated to cost approximately $110 million, will be financed through a syndicate of lenders ("Lenders"), for which Mellon Bank, N.A. will act as agent. The Lenders would provide for the Project the following credit facilities ("Facilities"): (1) A construction loan ("Construction Loan") of up to $105 million which would be converted to a term loan ("Term Loan") of up to $83 million with a maturity of up to 15 years upon the occurrence of certain events; (2) a line of credit ("Project Line of Credit") of up to $5 million of which up to $4 million would be available to secure certain letters of credit required by the Project ("Project LOC's"); and (3) an interest rate hedging facility ("Hedging Facility") of up to $28.5 million. Assuming possible cost overruns and contingent obligations during the construction period of $8.5 million, which will be provided from additional funding in the form of equity letters of credit by the Partnership, the total cost of the Project may increase to $118.5 million.

The Facilities would be secured by substantially all of the assets of the Project, and may also be secured by a pledge of the stock of Geddes and/or the limited partnership interests in the Partnership. In addition, the Partnership may grant to the Project's fuel supplier a subordinate lien on and security interest in substantially all of the Project's assets to secure certain payment obligations of the Partnership under the gas supply agreement. The Facilities would also be subject to mandatory and optional prepayment under certain circumstances. Optional prepayments during up to the first five years of the Term Loan may be subject to a premium of up to 1% of the amount prepaid.

Geddes seeks to acquire the individual nominee's interest in the Partnership and to purchase a 50% limited partnership interest in the Partnership for a purchase price of up to $22 million. The Partnership further seeks to issue and sell to one or more nonaffiliated investors from time-to-time through December 31, 1994 limited partnership interests in an aggregate amount not to exceed $42 million, so as to reduce EII's direct or indirect interest in the Partnership to 50%. The Partnership seeks an exception from the competitive bidding requirements of Rule 50 under subsection from (a)(5) thereof for the sale of the limited partnership interests.

The Partnership seeks to issue promissory notes up to a maximum amount of $33.5 million to the Lenders evidencing its obligations under the Project Line of Credit and the Hedging Facility. The Project Line of Credit will be used to meet working capital requirements of the Partnership. The Hedging Facility will be used to "swap" borrowings made under the Term Loan at fluctuating rates for fixed rate obligations. The Project Line of Credit will bear interest, at the borrower's option, at the rate of either (i) the greater of Mellon Bank's prime rate or ½ of 1% in excess of the Federal Funds Rate ("Alternate Base Rate") plus 1½%, (ii) the London Interbank Offered Rate ("LIBOR") plus 2½ or (iii) a certificate of deposit rate ("CD Rate") plus 2⅝%. The Lenders would also be entitled to certain commitment, arrangement and other fees in connection with the above Facilities. The Project Line of Credit would expire five years from the earlier of the conversion date or 24 months after closing of the Construction Loan, subject to extension under certain circumstances.

The Partnership also seeks to issue promissory notes evidencing its obligations under the Project LOC's. The Project LOC's, which will secure obligations to vendors under gas supply and transportation and other agreements relating to the operation of the Project, would not exceed an aggregate amount of $4 million. The Project LOC's would bear interest at a rate not in excess of 2% above the LIBOR, as in effect from time to time, and would extend for terms of up to two years, subject to periodic renewal. Fees would be payable to the issuing banks in an amount not to exceed 2% of the face amount of the Project LOC's.

The Project agreements will require that, at the earlier of the conversion of the Construction Loan to the Term Loan or the date which is 24 months after the closing of the Construction Loan, the limited partners contribute up to $42 million in equity to the Partnership, including any contingent and possible cost overrun equity commitments. The Applicants therefore propose that EII make, from time-to-time through December 31, 1994, capital contributions to Geddes which would, in turn, make capital contributions to the Partnership in the aggregate amount of up to $22 million in order to meet Geddes' equity commitments.

In order to secure these equity commitments, Geddes seeks to issue to banks, from time-to-time through December 31, 1994, unsecured promissory notes not exceeding $17 million aggregate principal amount, and from time-to-time until retirement of obligations under the Facilities, to issue additional unsecured promissory notes not exceeding $5 million. GPC and EII seek to unconditionally guarantee payment of such unsecured promissory notes. The notes would, in each case, mature not later than four years from their respective dates of issuance and would bear interest at rates not in excess of 5% above the prime rate for commercial borrowings as in effect from time-to-time.

Alternatively, the limited partners' commitments to make their respective equity investments in the Partnership may be required to be secured by letters of credit ("Equity LOC's). The Equity LOC's to be obtained by Geddes would have a face amount not in excess of $22 million; of such Equity LOC's, up to $17 million in face amount would extend for up to two years and up to $5 million would extend up to retirement of obligations under the Facilities. In addition, the Equity LOC's would bear interest at rates not in excess of 5% above the prime rate for commercial borrowings charged by the issuing financial institution, as in effect from time-to-time. Fees of up to 2% of the face amount of the Equity LOC's would be payable to the issuing institutions. GPU proposes to make, from time-to-time through December 31, 1994, capital contributions or loans of up to $22 million to GPC, which would in turn make further loans or capital contributions of up to such amount to EII, in order to secure the Equity LOC's. The loans would be on the same terms and conditions, including interest rates and maturity dates as the related Equity LOC's.

The Partnership will implement the financing of the construction costs of the Project through the Onondaga County Industrial Development Agency ("OCIDA"), in the following manner. The Partnership will transfer to OCIDA its rights in the Project. OCIDA will then issue to the Lenders one or more secured, nonrecourse, taxable notes reflecting the terms of the Construction Loan and the Term Loan ("Project Notes"). OCIDA will hold title to the Project so long as the Project Notes are outstanding. The proceeds from the sale of the Project Notes to the Lenders, together with equity contributions made by the limited partners during the construction period, would be used to fund construction of the Project.

The Partnership seeks to enter into a lease or installment sale agreement with OCIDA pursuant to which it would agree to occupy the Project and repurchase from time-to-time the Project assets from OCIDA. The terms and conditions of the lease or installment sale will be designed to mirror the principal amount of, interest on, and other payment terms and conditions of the Project Notes. OCIDA would in turn apply the payments received from the Partnership to payment of the Project Notes. At the end of the term of the lease or installment sale, the Partnership would repurchase the Project from OCIDA. The Partnership also proposes to guarantee payment of principal of, and interest on, the Project Notes.

Construction financing through OCIDA will afford the Project certain tax benefits, including an exemption from New York state and local sales and use taxes, mortgage recording fees and real property taxes so long as the Project is owned by OCIDA. The partnership expects, however, to enter into a "payment in lieu of tax" agreement pursuant to which it would agree to make specified payments to the local municipality in lieu of real estate tax payments. OCIDA may grant a mortgage and security interest in the assets of the Project to the local municipality to secure such payment obligations. Interest on the Project Notes will not be exempt from Federal, state, or local income taxes.

The Project Notes and obligations under the Facilities will be issued on a non-recourse basis—i.e., neither EII nor the general or limited partners will be liable for any payment or other obligations or liabilities thereunder. It is anticipated, however, that the Partnership will unconditionally guaranty to the Lenders payment of all principal, interest and other payments due on the Project Notes. EII proposes to pledge to the Lenders all of the common stock of Geddes and for Geddes to pledge to the Lenders its limited partnership interest in the Partnership as security for the Project Notes.

The first $45 million of borrowings under the Construction Loan will bear interest at a fixed rate equal to 2¾% above the yield on two year U.S. Treasury Bills. The remainder of the Construction Loan will bear interest, at the borrower's option, at the rate of either (i) the Alternate Base Rate plus up to a maximum of 1¼%, (ii) the LIBOR plus up to a maximum of 2¼% or (iii) the CD Rate plus up to a maximum of 2⅜%. The first $45 million of borrowings of the Term Loan will bear interest at a fixed rate equal to the interpolated rate on U.S. Treasury Bills with an average maturity of approximately 8½ years plus 3.18%. The remainder of the Term Loan will bear interest, at the borrower's option, at: (a) The Alternate Base Rate plus up to a maximum of 2%; (b) the LIBOR plus up to a maximum of 3%; or (c) the CD Rate plus up to a maximum of 3⅛%. In the event of a default by the Partnership under any of the Facilities, outstanding loans accelerated by the Lenders would bear interest at a default rate not to exceed 5% above applicable interest rates.

Allegheny Power System, Inc. (70-7960)

Allegheny Power System, Inc. ("APS"), 12 East 49th Street, New York, New York 10017, a registered holding company, has filed a declaration under section 6(a) and 7 of the Act and Rules 50 and 50(a)(5) thereunder.

APS proposes to issue and sell up to 3.5 million shares of its authorized and unissued common stock, per value $2.50 per share ("Common Stock"), under the competitive bidding procedures of Rule 50 of the Act as modified by the Commission's Statement of Policy dated September 2, 1982 (HCAR No. 22623) or in a negotiated sale to underwriters pursuant to an exception from the competitive bidding requirements of

Rule 50 under subsection (a)(5). APS has requested that it be authorized to begin negotiations with potential underwriters to sell the Common Stock. It may do so.

Proceeds from the sale of the Common Stock may be used:

(1) To repay short-term debt;

(2) To make capital contributions to APS's direct, and advances to its indirect, subsidiary companies for use by them to finance construction, to acquire property and for their other general corporate purposes;

(3) To acquire notes or stock of such subsidiary companies;

(4) To repurchase shares of APS's common stock in order to fund its Dividend and Stock Purchase Plan ("Plan") in lieu of issuing additional new shares of common stock pursuant to such Plan; and

(5) For other general corporate purposes.

Ohio Valley Electric Corporation (70-7961)

Ohio Valley Electric Company ("OVEC"), P.O. Box 468, Piketon, Ohio 45661, an electric public-utility subsidiary company of American Electric Power, Inc., a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

OVEC proposes to issue and sell $10 million principal amount of its unsecured promissory notes ("Notes") to one or more commercial banks, financial institutions or other institutional investors pursuant to one or more term loan agreements ("Agreement"). The proceeds will be used to pay an unsecured promissory note of OVEC in the principal amount of $10 million that matures on June 23, 1992.

The Agreement would be for a term of not less than nine months nor more than ten years from the date of borrowing and provide that the Notes bear interest at either a fixed-rate, a fluctuating rate or some combination of fixed and fluctuating rates. The actual rate of interest which each Note shall bear shall be subject to further negotiation between OVEC and the lender. Any fixed-rate of interest of the Notes will not be greater than 300 basis points above the yield at the time of issuance of the Notes to maturity of United States Treasury obligations that mature on or about the date of maturity of the Notes. Any fluctuating rate will not be greater than 300 basis points above the rate of interest announced publicly by a major bank from time-to-time as its base or prime rate.

No compensating balances shall be maintained with, or fees in the form of substitute interest paid to, a lender under the Agreement. However, in the event a bank or financial institution arranges for a borrowing from a third party, such institution may charge OVEC a placement fee, not to exceed ⅞% of the principal amount of such borrowing.

A lender may desire to assign, or to sell participations in, all or any part of, the Agreement and the Notes thereunder to other entities. Such assignee would have the same rights and benefits under the Agreement as the lender. Such participant would not have any rights under the Agreement, but would have rights against the lender in respect of the agreement between the participant and the lender.

The Agreement may specify that, in the event a Note bearing interest at a fixed-rate is paid prior to maturity in whole or in part and the fixed-rate at that time exceeds the yield to maturity of certain United States Treasury securities maturing on or close to the maturity date of the Note, OVEC shall pay to the lender an amount based upon the present value of such prepaid amounts discounted at such treasury yield. The Agreement also may contain certain restrictive covenants and may permit the holder of a Note to require OVEC to prepay the Note after an ownership change.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-10247 Filed 4-30-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent to Rule on Application to Impose and use the Revenue From a Passenger Facility Charge (PFC) at Seattle-Tacoma International Airport, Seattle, WA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Seattle-Tacoma International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and 14 CFR part 158.

DATES: Comments must be received on or before June 1, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

J. Wade Bryant, Manager, Seattle Airports District Office, SEA-ADO, Federal Aviation Administration, 1601 Lind Avenue SW, suite 250, Renton, Washington 98055-4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Andrea B. Riniker, Managing Director, Aviation Division, Port of Seattle at the following address:

Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Port of Seattle under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Paul F. Johnson, Civil Engineer, (206) 277-2655; Seattle Airport District Office, SEA-ADO; Federal Aviation Administration; 1601 Lind Avenue SW., suite 250; Renton, Washington 98055-4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Seattle-Tacoma International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158)).

On April 24, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Port of Seattle was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 13, 1992. The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: September 1, 1992.

Proposed charge expiration date: December 31, 1993.

Total estimated PFC revenue: $28,847,488.00.

Brief description of proposed project(s): Noise insulation; Reconstruct Runway 16L; Reconstruct Runway 16R (design only); Construct new taxiways; Runway and taxiway improvements; Construct perimeter road; Planning/EIS for South Aviation Support Area;

Purchase CFR vehicle and fire truck; Construct security system; Enhance subway transport system.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Class of carriers defined as Commercial Operators of Small Aircraft, comprising less than 1% of total annual enplanements at the Airport. Harbor Airlines, Air San Juan and Ludlow Aviation.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM-600, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Port of Seattle.

Issued in Renton, Washington on April 24, 1992.

Cecil C. Wagner,

Acting Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 92-10206 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-13-M

Intent to Rule on Application to Impose and use the Revenue From a Passenger Facility Charge (PFC) at Twin Falls-Sun Valley Regional Airport, Twin Falls, ID

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Twin Falls-Sun Valley Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and 14 CFR part 158.

DATES: Comments must be received on or before June 1, 1992..

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager, Seattle Airports District Office, SEA-ADO, Federal Aviation Administration, 1601 Lind Avenue SW, suite 250, Renton, Washington 98055-4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Thomas J. Courtney, City Manager of the City of Twin Falls at the following address: City and County of Twin Falls, Idaho, P.O. Box 1907, Twin Falls, Idaho 83303-1907.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City and County of Twin Falls under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Lee-Pang, Civil Engineer, (206) 227-2654 Seattle Airport District Office, SEA-ADO; Federal Aviation Administration; 1601 Lind Avenue SW., suite 250; Renton, Washington 98055-4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Twin Falls-Sun Valley Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of Federal Aviation Regulations 14 CFR part 158).

On April 17, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by City and County of Twin Falls was substantially complete within the requirements § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 7, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 1992.

Proposed charge expiration date: January, 1998.

Total estimated PFC revenue: $270,000.00.

Brief description of proposed project(s): Construct New Terminal Building.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air charter carriers and air taxis. Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA regional Airports office located at Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM-600, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City and County of Twin Falls.

Issued in Renton, Washington on April 23, 1992.

Cecil C. Wagner,

Acting Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 92-10207 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Poteau, OK

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Poteau, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Lind, Assistant Division Administrator, Federal Highway Administration, Federal Office Building, room 454, 200 Northwest 5th Street, Oklahoma City, Oklahoma 73102. Telephone: (405) 231-4725.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oklahoma Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve US Route 59 (US 59) in Poteau, Oklahoma. The proposed improvement would involve the construction of a bypass facility on the west edge of Poteau from the US 59/US 271 junction northeast 4.0 miles to the US 59/SH 112 junction

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Alternatives under consideration include (1) constructing a four-lane limited access highway on new alignment and (2) taking no action. Two alignments to complete Alternative (1) will be studied.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A public meeting and/or public hearing will be held in Poteau in the future. Public notice will be given of the time and place of the meeting and/or hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Issued on: April 22, 1992.

Bruce A. Lind,

FHWA, Assistant Division Administrator, Oklahoma City, Oklahoma.

[FR Doc. 92-10144 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements

Pursuant to 49 CFR part 235 and 49 App. U.S.C. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Block Signal Application (BS-AP)-No. 3161

Applicants

Union Pacific Railroad Company, Mr. P. M. Abaray, Chief Engineer-Signals, 1416 Dodge Street, room 920, Omaha, Nebraska 68179.

Southern Pacific Transportation Company, Mr. J.A. Turner, Chief Engineer-Signals, Southern Pacific Building, One Market Plaza, San Francisco, California 94105.

Kansas City Southern Railway Company, Mr. M.W. Hahn, Vice President, Transportation, 114 W. Eleventh Street, Kansas City, Missouri 64105.

Texas Northeastern Division, Mid-Michigan Railroad, Inc., Mr. M.T. Brigham, General Manager, P.O. Box 1296, Sherman, Texas 75091.

The Union Pacific Railroad Company (UP), Southern Pacific Transportation Company (SP), Kansas City Southern Railway Company (KCS), and Texas Northeastern Division, Mid-Michigan Railroad, Inc., (TNER) jointly seek approval of the proposed modification of the manual interlocking, near Texarkana, Texas, milepost 0.5, on the UP Red River Division, Dallas Subdivision. The manual interlocking consists of the following crossings at grade: The KCS single main track crossing the TNER single main track; the KCS single main track crossing the SP double main tracks; and the SP double main tracks crossing the UP double main tracks.

The proposed changes consist of major modifications to the present mechanical interlocking including the reduction of the interlocking limits, the conversion of KCS and TNER portions of the interlocking from manual control to automatic operation, and the remote control of UP and SP portions of the interlocking through their respective dispatchers.

The reason given for the proposed changes is to rehabilitate the interlocking plant.

BS-AP-No. 3162

Applicants

Fort Smith Railroad Company, Mr. O.L. Cox, Vice President Operations, Brunwick Place, suite A, 101 North 10th Street, Fort Smith, Arkansas 72901.

Arkansas and Missouri Railroad, Mr. G. B. McCready, Vice President and General Manager, 107 N. Commercial Street, Springdale, Arkansas 72764.

The Fort Smith Railroad Company (FSR) and the Arkansas and Missouri Railroad (AM) jointly seek approval of the proposed discontinuance and removal of the electric lock from the railroad crossing gate and the removal of automatic signal numbers 4141 and 4142, near Forth Smith, Arkansas, milepost 414.1, where the single main track of the AM crosses at grade the FSR industrial track.

The reason given for the proposed changes is to reduce unnecessary maintenance expenses.

BS-AP-No. 3163

Applicants

Southern Pacific Transportation Company, Mr. J.A. Turner, Chief Engineer-Signals, Southern Pacific Building, One Market Plaza, San Francisco, California 94105.

Kansas City Southern Railway Company, Mr. M.W. Hahn, Vice President, Transportation, 114 W. Eleventh Street, Kansas City, Missouri 64105.

The Southern Pacific Transportation Company (SP) and Kansas City Southern Railway Company (KCS) jointly seek approval of the proposed modification of the manual interlocking, consisting of the removal of the two electrically locked pipe-connected derails, near Chaison, Texas, milepost 1.87, on SP's Avondale District, Sabine Branch, where a SP single main track crosses at grade a KCS single main track.

The reason given for the proposed changes is the derails are worn out and removal of the pipe-connected derails will enhance the operations of trains at this crossing.

BS-AP-No. 3164

Applicant

Burlington Northern Railroad Company, Mr. W.G. Peterson, Chief Engineer-Control Systems, 9401 Indian Creek Parkway, P.O. Box 29136, Overland Park, Kansas 66201-9136.

The Burlington Northern Railroad Company seeks approval of the proposed modification of the traffic control and automatic block signal systems, on the single main track, between Boylston, Wisconsin, milepost 15.9 and Grand Rapids, Minnesota, milepost 117.0, on the Dakota Division, Fifth Subdivision, consisting of the removal, relocation, and installation of various signals, in conjunction with the utilization and equalization of electronic coded track circuits.

The reason given for the proposed changes is due to pole line elimination associated with the installation of electronic coded track circuits.

BS-AP-No. 3165

Applicant

Consolidated Rail Corporation, Mr. J.F. Noffsinger, Chief Engineer—C&S, 15 North 32nd Street, room 1215, Philadelphia, Pennsylvania 19104-2849.

Consolidated Rail Corporation seeks approval of the proposed discontinuance and removal of the traffic control system on the controlled siding between "CP 283" Interlocking, milepost 283.8, and "CP 285" Interlocking, milepost 286.0, near Syracuse, New York, on the Chicago Line, Albany Division, consisting of the removal of automatic signal numbers 2853E and 2853W.

The reason given for the proposed changes is to retire facilities no longer required for present operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, SW.,

Washington, DC 20590 within 45 calendar days of the date of issuance of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on April 23, 1992.

Grady C. Cothen, Jr.,

Associate Administrator for Safety.

[FR Doc. 92-10154 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-06-M

Petition for Waivers of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received from Pro Rail Incorporated a request for waivers of compliance with certain requirements of the Federal rail safety standards. The petition is described below, including the regulatory provisions involved and the nature of the relief being requested.

Pro Rail Incorporated—LI-91-1 and SA-91-4

Pro Rail Incorporated (Pro Rail) requests waivers of compliance with certain provisions of the Locomotive Safety Standards (49 CFR part 229) and the Railroad Safety Appliance Standards (49 CFR part 231) for its locomotive number ALCO 5.

The ALCO 5 is a switcher type locomotive built by the American Locomotive Company (ALCO) at Schenectady, New York, and used in switching service in the ALCO plant until it closed. The petitioner stated that a group of individuals incorporated in New York State as Pro Rail saved this historic shop switcher from being scrapped. Pro Rail restored ALCO 5 to its original appearance, however making some required FRA updates such as switching steps as required by 49 CFR 229.30 and certified glazing as required by 49 CFR part 223.

Pro Rail says that the ALCO 5 is on the Strasburg Railroad in Strasburg, Pennsylvania. At this time, the locomotive is not in use, but rather, is on display for public education and enjoyment. In its anticipated future use, ALCO 5 will remain on the Strasburg Railroad and provide a very limited service, most specifically in the shop location at Strasburg, an occasional road freight assignment and, very rarely, switching moves as required in the adjacent Railroad Museum of Pennsylvania.

In petition number SA-91-4, Pro Rail is seeking a waiver of § 231.30(d)(2) "End footboards and pilot steps", which states in part "* * * locomotives used in switching service built before April 1, 1975, may not be equipped with footboards or pilot steps after September 30, 1978." Pro Rail states that in order to retain this locomotive in the same configuration as it was originally built, it is requesting that it be allowed to operate it with footboards. Pro Rail also stated that while the locomotive is in service, all employees will not use the footboards but rather the side switching steps.

In petition number LI-91-1, Pro Rail is seeking a waiver of § 229.47(a) "Emergency brake valve" which states in part "* * * each road locomotive shall be equipped with a brake pipe valve that is accessible to a member of the crew, other than the engineer, from that crew members position in the cab." The petitioner states that an extra brake valve handle in the cab will alter the physical layout of the cab as built. Considering the very limited use of the ALCO 5, the excellent visibility afforded by its cab, and the low operating speeds (no more than 20 mph), Pro Rail believes the waiver should be granted.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning this proceeding should identify the appropriate docket number (e.g., Waiver Petition Docket Number SA-91-4) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received before June 8, 1992 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9 a.m.-5 p.m.) in room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC on April 23, 1992.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 92-10156 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-06-M

[BS-AP-NO. 3154]

Twin Cities and Western Railroad Company; Public Hearing

The Twin Cities and Western Railroad Company has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance and removal of the traffic control system, between Glencoe, Minnesota, milepost 466.9 and Appleton, Minnesota, milepost 578.9, on the Glencoe Subdivision, a distance of approximately 112 miles.

This proceeding is identified as FRA Block Signal Application Number 3154.

The FRA has issued a public notice seeking comments of interested parties and conducted a field investigation in this matter. After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on Thursday, June 11, 1992, in room 421 of the Bishop Henry Whipple Federal Building located at 1 Federal Drive, Ft. Snelling, Minnesota. Interested parties are invited to present oral statements at the hearing.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR part 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC on April 23, 1992.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 92-10155 Filed 4-30-92; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: April 27, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW, Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: None.

Type of Review: New Collection.

Title: Focus Group Interviews Concerning W-2 Wage and Tax Statement.

Description: Focus group interviews are necessary to the effectiveness of new W-2 forms and to obtain taxpayers suggestions for any improvements or changes needed. Affected public is 60 participants.

Respondents: Individuals or households.

Estimated Number of Respondents: 600.

Estimated Burden Hours Per Respondent: 3 hours, 5 minutes.

Frequency of Response: Other (One-time Focus Groups).

Estimated Total Reporting Burden: 230 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20244.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92-10217 Filed 4-30-92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 27, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0373.

Form Number: ATF REC 5400/3.

Type of Review: Extension.

Title: Records and Supporting Data: Importation, Receipt, Storage, and Disposition by Licensed Explosives Importers, Dealers, and Permittees.

Description: These are the records of importation, receipt, storage and disposition of explosive materials by persons engaged in business within the explosives industry, and are used by the Government to determine where and to whom explosive materials are sent, thereby ensuring these materials are kept out criminal commerce.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Recordkeepers: 7,450.

Estimated Burden Hours Per Recordkeeper: 22 hours, 13 minutes.

Frequency of Response: Other.

Estimated Total Recordkeeping Burden: 173,000 hours.

Clearance Officer: Robert N. Hogarth (202) 927-8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92-10218 Filed 4-30-92; 8:45 am]

BILLING CODE 4810-31-M

Public Information Collection Requirements Submitted to OMB for Review

DATED: April 27, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0161.

Form Number: None.

Type of Review: Extension.

Title: Importation of Ethyl Alcohol for Non-Beverage Uses.

Description: The declaration claiming duty-free entry is filed by the broken or his agent and then is transferred with other documentation to the Bureau of Alcohol, Tobacco and Firearms.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Responses: 300.

Estimated Burden Hours Per Response: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 25 hours.

Clearance Officer: Ralph Meyer (202) 566-9182, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92-10219 Filed 4-30-92; 8:45 am]

BILLING CODE 4820-02-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 27, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0236.
Form Number: IRS Form 11–C.
Type of Review: Revision.
Title: Stamp Tax and Registration Return for Wagering.
Description: Form 11–C is used to register persons accepting wagers (Internal Revenue Code (IRC) section 4412). IRS uses this form to register the respondent, collect the annual stamp tax (IRC section 4412) and to verify that the tax on wagers is reported on Form 730.
Respondents: Individuals or households, Businesses or other for-profit.
Estimated Number of Responses/ Recordkeepers: 11,500.
Estimated Burden Hours Per Respondent/Recordkeeper: Recordkeeping—7 hours, 10 minutes. Learning about the law or the form—2 hours, 2 minutes. Preparing the form—4 hours, 5 minutes. Copying, assembling and sending the form to the IRS—32 minutes.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 159,045 hours.
OMB Number: 1545–1022.
Form Number: IRS Form 7018–C.
Type of Review: Extension.
Title: Order Blank for Forms.
Description: Form 7018–C allows taxpayers who must file information returns a systematic way to order information tax forms materials.
Respondents: Businesses or other for-profit, Small businesses or organization.
Estimated Number of Responses: 500,000.
Estimated Burden Hours Per Respondent: 3 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 25,000 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.

[FR Doc. 92–10220 Filed 4–30–92; 8:45 am]
BILLING CODE 4830–01–M

Internal Revenue Service

Information Reporting Program Advisory Committee; meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of open meeting.

There will be a meeting of the Information Reporting Program Advisory Committee (IRPAC) on Tuesday and Wednesday, May 19 and 20, 1992. The meeting will be held in room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue, Northwest, Washington, DC. The meeting will begin at 10 a.m., on both days, concluding about mid-day on the 20th. A summarized draft version of the agenda follows:

Agenda for IRPAC meeting on May 19 & 20, 1992

May 19, 1992

10:00 Public Meeting
10:10 Opening Remarks by IRS Deputy Commissioner
10:30 IRPAC Subcommittee Presentations
12:00 IRPAC In Camera Luncheon
01:30 IRPAC Subcommittee Presentations Resume
05:15 Adjourn for the day

May 20, 1992

10:00 Public Meeting Reconvenes —IRPAC Subcommittee Presentations
12:00 Adjourn

Topics that will be discussed include: (1) single wage reporting, (2) Form 1099 uniformity, (3) business information reporting, (4) IRP call-site, (5) miscellaneous technical issues, (6) internal and external communication, and (7) report on third-party sickpay.

Note: Last minute changes to the order of the agenda or topics for discussion are possible and could prevent effective advance notice.

DATES: The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people, including members of IRPAC and IRS officials. Due to the limited conference space, notification of intent to attend the meeting must be made with Kate LaBuda no later than May 14, 1992. Ms. LaBuda may be reached at 202–566–8542 (not a toll-free number).

ADDRESSES: If you would like to have IRPAC consider a written statement, please write to Kate LaBuda at IRS, IRP Planning and Management Staff, EX:I:P, room 2011, 1111 Constitution Avenue, NW., Washington, DC, 20224.

FOR FURTHER INFORMATION CONTACT: Kate LaBuda, 202–566–8542 (not a toll-free number).

Dated: April 28, 1992.

John F. Devlin,
Executive Director, Information Reporting Program.

[FR Doc. 92–10256 Filed 4–30–92; 8:45 am]
BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 85
Friday, May 1, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:04 a.m. on Tuesday, April 28, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of certain insured banks.

Recommendations concerning administrative enforcement proceedings.

Recommendations regarding the liquidation of depository institutions' assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,796—Firstsouth, FA, Pine Bluff, Arkansas

Case No. 47,801—The National Bank of Washington, Washington, D.C.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and concurred in by Director Stephen R. Steinbrink (Acting Comptroller of the Currency), Chairman William Taylor, and Vice Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-10287 Filed 4-28-92; 4:50 pm]

BILLING CODE 6714-0-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, May 6, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 29, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-10321 Filed 4-29-92; 10:37 am]

BILLING CODE 6210-01-M

NATIONAL LABOR RELATIONS BOARD

Notice of Meting

TIME AND DATE: 2:00 p.m. Monday, May 4, 1992.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW., Washington, DC 20570.

STATUS: Open to public Observation.

MATTERS CONSIDERED: Review of responses to Advance Notice of Proposed Rulemaking relating to the Supreme Court's decision in *CWA* v. *Beck* and related matters.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, DC 20570, Telephone: (202) 254-9430.

Dated, Washington, D.C., April 27, 1992.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 92-10286 Filed 4-28-92; 4:34 pm]

BILLING CODE 7545-01-M

federal register

Friday
May 1, 1992

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Terminal Airspace Reconfiguration; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 26852; Notice No. 92-5]

RIN 2120-AE18

Terminal Airspace Reconfiguration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to amend the Federal Aviation Regulations (FAR) by revising all control zones and transition areas and specific terminal control areas (TCAs) and airport radar service areas (ARSAs). The revisions propose to: (1) Modify the lateral and vertical dimensions of the control zones and transition areas; (2) revise the lateral dimension of the surface area of the Anchorage, Alaska ARSA; (3) lower the vertical limit of the Chicago, Midway Airport, Illinois ARSA so it does not overlap the Chicago, O'Hare International Airport TCA; (4) replace the El Toro, California Special Air Traffic Rules Area with a Class D airspace area; and (5) modify the names and the language in the airspace descriptions of specific TCAs and ARSAs. This proposal would ease the conversion from existing control zones and transition areas to the new airspace designations established under the Airspace Reclassification final rule, which is effective September 16, 1993, and would be consistent with the primary intention of Airspace Reclassification to simplify airspace designations.

DATES: Comments must be submitted on or before June 15, 1992.

ADDRESSES: Comments on this NPRM should be mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 26852, 800 Independence Avenue, SW., Washington, DC 20591. Comments delivered must be marked Docket No. 26852. Comments may be examined in room 915G weekdays between 8:30 a.m. and 5 p.m., except on Federal holidays.

The informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division. The addresses of the offices and the corresponding states, territories, and commonwealths are listed below.

For Alaska:

Manager, Air Traffic Division, AAL-500, Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, Alaska 99513.

For Iowa, Kansas, Missouri, and Nebraska:

Manager, Air Traffic Division, ACE-500, Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, Missouri 64106.

For Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and West Virginia:

Manager, Air Traffic Division, AEA-500, Eastern Region Headquarters, JFK International Airport, Fitzgerald Federal Building, Jamaica, New York 11430.

For Illinois, Indiana, North Dakota, Michigan, Minnesota, Ohio, South Dakota, and Wisconsin:

Manager, Air Traffic Division, AGL-500, Great Lakes Region Headquarters, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

For Connecticut, New Hampshire, Maine, Massachusetts, Rhode Island, and Vermont:

Manager, Air Traffic Division, ANE-500, New England Region Headquarters, 12 New England Executive Park, Burlington, Massachusetts 01803.

For Colorado, Idaho, Montana, Oregon, Utah, Washington, and Wyoming:

Manager, Air Traffic Division, ANM-500, Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

For Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virgin Islands:

Manager, Air Traffic Division, ASO-500, Southern Region Headquarters, 3400 Norman Berry Drive, East Point, Georgia 30344.

Mailing Address:

P.O. Box 20636, Atlanta, Georgia 30320.

For Arkansas, Louisiana, New Mexico, Oklahoma, and Texas:

Manager, Air Traffic Division, ASW-500, Southwest Region Headquarters, 4400 Blue Mound Road, Fort Worth, Texas 76193-0530.

For American Samoa, Arizona, California, Hawaii, Japan, Mariana Islands, Marshall Islands, Nevada:

Manager, Air Traffic Division, AWP-500, Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Hawthorne, California.

Mailing Address:

P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Mosley, Air Traffic Rules Branch, ATP-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-9251. Comments of a general nature should be addressed to Mr. Mosley; however, comments that address a specific control zone or transition area should be addressed to the appropriate FAA region, which is listed under **ADDRESSES.**

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the economic, environmental, energy, or federalism impacts that might result from adoption of the proposals contained in this NPRM also are invited. Substantive comments should be accompanied by actual and anticipated cost impact statements, as appropriate. Comments should identify the regulatory docket number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed amendments. The proposals contained in this NPRM may be changed in light of comments received. All comments received will be available in the Rules Docket, before and after the closing date for comments, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments on this NPRM must include a preadddressed, stamped postcard on which the following statement is made: "Comments to Docket Number 26852." The postcard will be date stamped and mailed to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the docket number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should

request from the above office a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Related Agency Actions

On December 17, 1991, the final rule for Airspace Reclassification was published (56 FR 65638). The new airspace classes are effective September 16, 1993. The final rule amends FAR part 71 to reclassify U.S. airspace in accordance with the airspace classes adopted by the International Civil Aviation Organization (ICAO).

Under the amended part 71, positive control area (PCAs), jet routes, and area high routes are classified as Class A airspace areas; TCAs are classified as Class B airspace areas; ARSAs are classified as Class C airspace areas; control zones for airports with operating control towers and airport traffic areas that are not associated with the primary airport of a TCA or an ARSA are classified as Class D airspace areas; all other controlled airspace areas are classified as Class E airspace areas; and airspace that is not otherwise designated as a controlled airspace area is classified as Class G airspace.

In addition, the Airspace Reclassification final rule incorporated part 75 into part 71 and established Subpart M—Jet Routes are Area High Routes in existing part 71, effective December 17, 1991. This new subpart includes the sections found in part 75, which has been removed and reserved. The Airspace Reclassification final rule also amended parts 1, 45, 61, 65, 91, 93, 101, 103, 105, 121, 127, 135, 137, 139, and 171 and Special Federal Aviation Regulation (SFAR) Nos. 51-1, 60, and 62, effective September 16, 1993, to change the terminology and integrate the adopted airspace classifications into the respective regulations that relate to airspace assignments and operating rules.

The implementation of the Airspace Reclassification final rule included parallel reviews of certain existing airspace areas to ensure that they meet the new airspace classifications. The results of the reviews are being addressed in two NPRMs. Because the NPRMs are being issued after the publication of the Airspace Reclassification final rule, but before the effective date of September 16, 1993, both existing and future terminologies are used. The actual airspace area descriptions are the same whether the airspace area is called: (1) A control zone for an airport with an operating control tower and an airport traffic area that are not associated with the primary airport of a TCA or an ARSA (current terminology), or a Class D airspace area (future terminology); (2) a control zone for an airport without an operating control tower (current terminology) or a Class E airspace area that extends upward from the surface (future terminology); or (3) a transition area (current terminology) or a Class E airspace area that extends upward from other than the surface (future terminology). These reviews do not change any requirements for operations under visual flight rules (VFR) or instrument flight rules (IFR).

The reviews of certain existing airspace areas focus on control zones, transition areas, and offshore airspace. The first of these reviews, which is addressed in this NPRM, focuses on control zones and transition areas. A subsequent NPRM will address offshore airspace and any supplementary airspace matters. The FAA expects that the proposals in both NPRMs would be effective no later than September 16, 1993, the effective date of the Airspace Reclassification final rule.

In addition to the implementation of Airspace Reclassification, modifications to transition areas are proposed to revise the distance of the airspace areas from the U.S. coast from 3 nautical miles to 12 nautical miles. Presidential Proclamation No. 5928, Territorial Sea of the United States of America, signed on December 27, 1988, extended the sovereignty of the U.S. government to 12 nautical miles from the coast of the United States (including its territories), in accordance with international law. On January 4, 1989, Amendment Nos. 71-12 and 91-207, Applicability of Federal Aviation Regulations in the Airspace Overlying the Waters Between 3 and 12 Nautical Miles From the United States Coast (54 FR 264), were published. These amendments extended controlled airspace and the applicability of general flight rules to the airspace overlying the waters between 3 and 12 nautical miles from the coast of the United States.

Guidelines for Reviewing Terminal Airspace

The guidelines for reviewing terminal airspace are based on changes that affect existing control zones and transition areas in FAA Order 7400.2C, Procedures for Handling Airspace Matters. The changes consist of the revised criteria to be used for the reviews, but are considered independent of the Airspace Reclassification final rule. Because the revised criteria will affect airspace areas before the implementation of the Airspace Reclassification final rule, the criteria use the existing terminology when referring to these airspace areas. However, the FAA's proposed changes affect existing airspace designations and the parallel airspace designations that become effective on September 16, 1993.

A copy of FAA Order 7400.2C can be found in Docket Number *26852* or obtained through the Document Inspection Facility, APA-220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267-3484.

Revisions to Criteria. The revised criteria in FAA Order 7400.2C include the following elements: (1) Converting the lateral unit of measurement for control zones and transition areas from statute miles to nautical miles; (2) conforming existing control zones associated with TCAs or ARSAs to be congruent with the lateral dimensions of the surface areas of existing TCAs or ARSAs; (3) redesignating control zones to contain intended operations under *IFR;* (4) redesignating the vertical limit of control zones for airports with operating control towers to extend upward from the surface of the earth to a specified altitude; (5) redesignating the vertical limit of control zones for airports without operating control towers to extend upward from the surface of the earth to an overlying or adjacent controlled airspace (e.g., a transition area); (6) establishing a policy to exclude satellite airports from control zones to the extent practicable and consistent with instrument procedures and safety; and (7) replacing control zone departure extensions with transition areas.

The conversion of the lateral unit of measurement for airspace dimensions from statute miles to nautical miles requires additional modifications to the revised criteria. The current rounding method for establishing the size of control zones and transition areas converts any fractional part of a mile to the next higher 0.5 statute mile increment. For example, 5.2 statute miles would be rounded up to 5.5 statute miles. If this system for rounding is retained after the conversion from statute miles to nautical miles, airspace dimensions would be increased by as much as 15 percent. To prevent any significant increase of airspace dimensions, the revised criteria would convert any fractional part of a nautical mile to the next higher 0.1 nautical mile increment. For example, 3.62 nautical miles would be rounded up to 3.7 nautical miles.

The FAA has decided that control zones for airports without operating control towers should be designated from the surface to the overlying or adjacent controlled airspace, which is a transition area. On September 16, 1993, transition areas and control zones for airports without operating control towers will be redesignated as Class E airspace areas and will include the same operating requirements. Under the Airspace Reclassification final rule, the current requirements for operations in control zones would apply to operations within the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace areas designated for an airport. Therefore, these current rules for operations in control zones would apply to operations in the Class E airspace areas that extend upward from the surface to the overlying or adjacent airspace, but they would *not* apply to operations in the Class E airspace areas that extend upward from other than the surface.

Exclusion of Satellite Airports. The FAA proposes to exclude satellite airports from control zones to the extent practicable and consistent with instrument procedures and safety. On September 16, 1993, control zones for airports with operating control towers and airport traffic areas that are not associated with the primary airport of a TCA or an ARSA will be designated as Class D airspace areas. Unlike aircraft operating in control zones, aircraft operating in Class D airspace areas will be required to establish two-way radio communications with air traffic control. However, aircraft operating in Class E airspace areas will not be required to establish two-way radio communications with air traffic control.

In the FAA's review of these control zones, consideration was given to the necessary size of the area and exclusion of satellite airports to the maximum extent practicable and consistent with safety. For example, a satellite airport without an operating control tower might have an airspace area (which will become a Class E airspace area) carved out of the existing control zone (which will become a Class D airspace area), or an airspace area (which will become a Class E airspace area) that could be placed under a shelf of a control zone (which will become a Class D airspace area). (See figure 1.) In another example, the portions of an existing control zone that extend beyond the existing limits of an airport traffic area (extension used for instrument approaches) may be designated by using only the airspace necessary under the terminal instrument procedures (TERPs) criteria. (See Figure 1.) When a satellite airport is excluded, a pilot who is operating an aircraft in the immediate vicinity of that satellite airport and who does not otherwise penetrate airspace in which two-way radio communications are required will be free to communicate on the common traffic advisory frequency (CTAF) of that satellite airport. The proposed revisions to the control zones specified below would exclude certain satellite airports that are not excluded in the current regulations. The provision in the revised criteria for satellite airports to be excluded from control zones to the extent practicable and consistent with instrument procedures and safety would also be used in future rulemaking actions.

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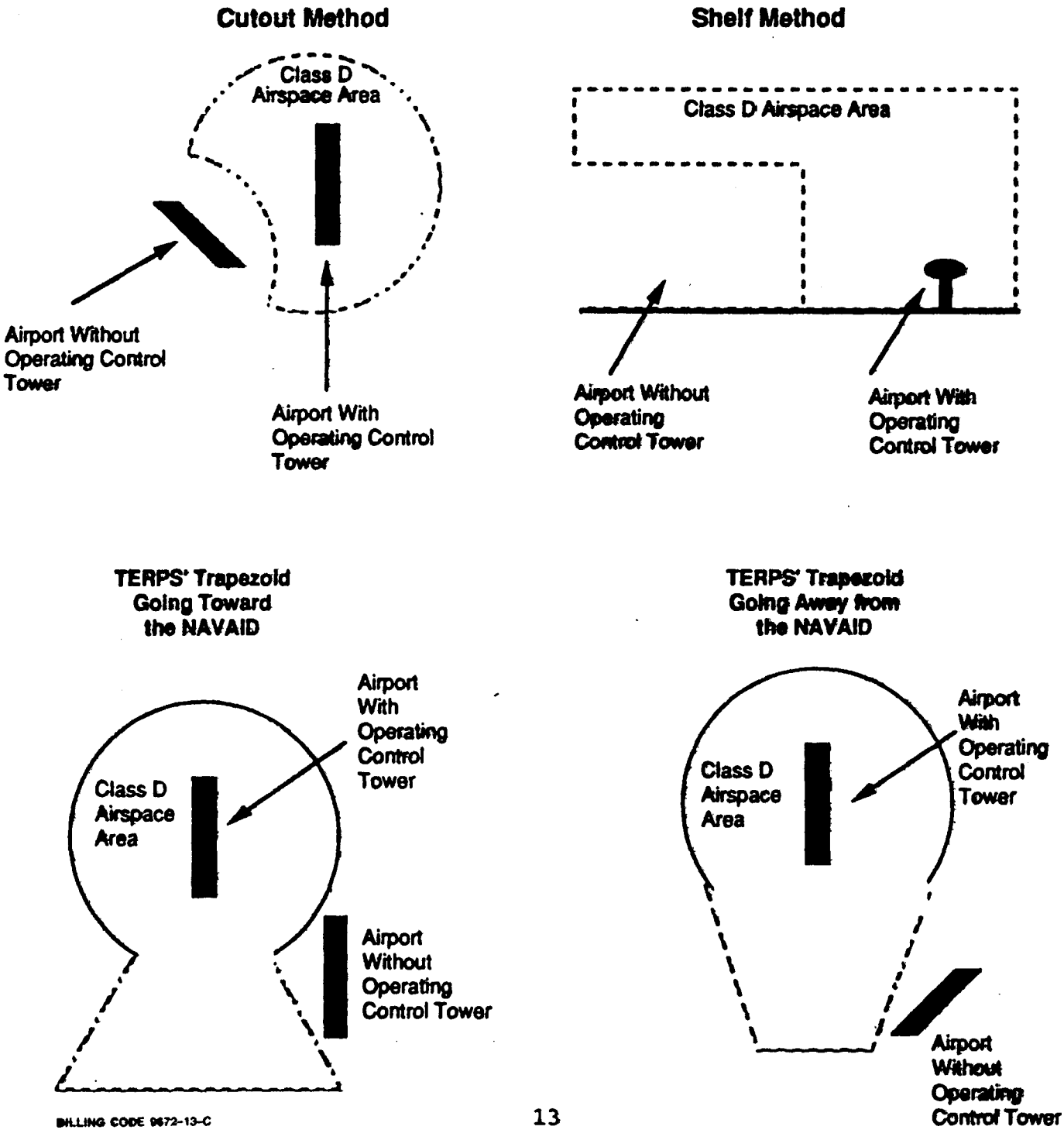
Figure 1. Examples of Satellite Airports Excluded from Class D Airspace Areas.



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The revised control zone for Fort Riley, Kansas, would exclude Freeman Field, in Junction City, Kansas, and the revised control zone for Johnson County Industrial Airport, in Olathe, Kansas, would exclude Gardner Municipal Airport, Kansas. The revised control zone for Kansas City International Airport, Missouri, would exclude both Elton Airport and North Platte Airpark, Missouri. The revised control zone for Saint Louis International Airport, Missouri, would exclude Arrowhead Airport, Missouri. The revised control zone for Rickenbacker Airport, in Columbus, Ohio, would exclude South Columbus Airport, Ohio. The revised control zone for Fort Devens, Massachusetts, would exclude Shirley Airport, Massachusetts. The revised control zone for Portsmouth, New Hampshire, would exclude Eliot/Littlebrook Airport, Maine. The revised control zone for Montpelier, Vermont, would exclude Washington Carriers Airport, Vermont. The revised control zone for Tampa, Florida, would exclude Peter O. Knight Airport, Florida. The revised control zone for Jackson, Mississippi, would exclude Bruce Campbell Field, Mississippi. The revised control zone for Amarillo, Texas, would exclude Amarillo Tradewinds Airport, Texas. The revised control zone for Stinson Municipal Airport, in San Antonio, Texas, would exclude Horizon Airport, in San Antonio, Texas. The revised control zone for Wichita Falls, Texas, would exclude Wichita Valley Airport, Texas. The revised control zone for Blytheville, Arkansas, would exclude Blytheville Municipal Airport, Arkansas.

The FAA has been flexible in its review of airspace dimensions. However, pilots who operate at satellite airports that underlie the instrument arrival and departure paths of primary airports in Class D airspace areas may, in some instances, be required to establish two-way radio communications with air traffic control to comply with safety precautions.

Reconfiguration of Control Zones and Transition Areas

The proposed modifications to the individual existing airspace areas are based on a review of each control zone and transition area using the revised criteria discussed in this document.

The control zones and transition areas addressed in this NPRM are classified into four basic categories: (1) Control zones for the primary airports of TCAs or ARSAs; (2) control zones for airports with operating control towers not associated with the primary airports of TCAs or ARSAs; (3) control zones for airports without operating control towers; and (4) transition areas.

The dimensions of control zones for the primary airports of TCAs or ARSAs are proposed to become congruent with the lateral and vertical dimensions of the TCAs or ARSAs. The existing surface areas of TCAs are designed to contain procedures under IFR, and the existing surface areas of ARSAs could contain procedures under IFR. Once the control zones become congruent with the dimensions of associated TCAs or ARSAs, they would not be depicted on aeronautical charts; however, existing TCAs and ARSAs will continue to be charted. On September 16, 1993, these control zones will be eliminated, and the associated TCAs and ARSAs will be classified as Class B and Class C airspace areas, respectively.

During the review of the surface areas of TCAs and ARSAs, the FAA noted that some of the primary airports of 54 TCAs and ARSAs would require controlled airspace that extends upward from the surface beyond the surface area of the TCA or ARSA to contain standard instrument arrival procedures within controlled airspace. These airspace areas, entitled extension areas, are similar to the "keyhole-shaped" areas of existing control zones. To ensure that sufficient controlled airspace exists for instrument arrivals at these primary airports, the FAA proposes that the control zones for such airports include an extension that extends beyond the TCA or ARSA surface area. These areas would extend upward from the surface to the overlying shelf of the appropriate TCA or ARSA.

On September 16, 1993, when the control zones associated with TCAs or ARSAs are eliminated, most extension areas would become separate Class E airspace areas. Like other Class E airspace areas, these areas would terminate at the overlying or adjacent airspace and would be indicated on visual aeronautical charts by a segmented magenta line. If these extension areas are classified as Class E airspace areas, pilots who operate in this area would not be required to contact the air traffic control facility having jurisdiction in that area. The extension area for the Seattle, Washington TCA and the El Paso, Texas ARSA would become separate Class D airspace areas, which would require pilots to establish two-way radio communications with air traffic control. The FAA is of the opinion that the proximity of the surface area of the TCA and ARSA to a runway threshold would require pilots who operate under VFR in the extension area to establish two-way radio communication with the air traffic control facility having jurisdiction in that area. These extension areas would be indicated on visual aeronautical charts by a segmented blue line.

Control zones for airports with operating control towers not associated with TCAs or ARSAs have been reviewed according to the revised criteria to ensure that the control zones contain intended terminal operations under IFR. The proposed modifications include provisions for satellite airports without operating control towers to be excluded from control zones as long as aviation safety is not jeopardized. The FAA proposes that control zones terminate at an altitude that will accommodate terminal operations under IFR. In most cases, this is 2,500 feet above the surface, rounded to the nearest 100-foot increment, and expressed in mean sea level (MSL). These control zones would continue to be depicted on visual aeronautical charts by a segmented blue line. On September 16, 1993, these control zones will be classified as Class D airspace areas. Control zones with extensions for instrument approaches that extend more than 2 miles would include a portion that will become Class E airspace areas.

Control zones include airspace to enable aircraft operating under IFR to depart the airport within controlled airspace and may include an extension for instrument approach procedures. In control zones with arrival extensions that extend more than 2 miles from the airspace necessary for aircraft operating under IFR to depart in controlled airspace, the airspace necessary for departures would be designated as Class D airspace areas and all of the airspace that extends beyond the area necessary for departures would be designated as Class E airspace areas. If these extensions were designated as Class E airspace areas, pilots who operate in the extension areas would not be required to contact the air traffic control facility having jurisdiction in those areas. As in any Class E airspace areas, the extensions would terminate at the adjacent or overlying airspace and would be indicated on visual charts by a magenta segmented line.

Under this proposal, Class D airspace areas would be designated within the proposed airspace necessary for aircraft operating under IFR to depart within controlled airspace and arrival extensions that are 2 miles or less from the airspace necessary for departures. When two-way radio communications between pilots and air traffic control are necessary for safety purposes in extensions that are more than 2 miles

from airspace necessary for departures, the FAA would propose to establish Class D airspace areas under individual rulemaking actions.

Control zones for airports without operating control towers have been reviewed under the revised criteria to ensure that the control zones contain intended operations under IFR. The control zones would extend upward from the surface and terminate at the overlying or adjacent controlled airspace. These control zones would be indicated on visual aeronautical charts by a segmented magenta line. On September 16, 1993, these control zones will be classified as Class E airspace areas that extend upward from the surface.

Approximately 66 percent of the total of 691 control zones for airports not associated with TCAs or ARSAs addressed in this NPRM would either retain their current lateral dimensions or be reduced. The breakdown of these proposed modifications is as follows: (1) 18 percent would retain current dimensions; (2) 46 percent would be reduced by 1 mile or less; (3) 2 percent would be reduced by more than 1 mile; (4) 26 percent would be expanded by 1 mile or less; and (5) 7 percent would be expanded by more than 1 mile. (The percentages have been rounded.)

Of these 691 control zones, 464 will become Class D airspace areas and 227 will become Class E airspace areas. Under this review, approximately 41 percent of the Class D airspace areas and 63 percent of the Class E airspace areas would be reduced in lateral dimensions. Approximately 18 percent of the Class D airspace areas and 19 percent of the Class E airspace areas would retain the same lateral dimensions as the current control zones. Approximately 41 percent of the Class D airspace areas and 17 percent of the Class E airspace areas would be expanded in lateral dimensions.

Most of those lateral expansions would be 1 mile or less. For example, in the control zones that will become Class D airspace areas, 10 percent of the total 464 areas would increase by more than 1 mile; 31 percent of the total would increase by 1 mile or less. Of the total 227 control zones that will become Class E airspace areas, 2 percent would increase by more than 1 mile, and 15 percent would increase by 1 mile or less.

Similarly, most of the reductions in lateral dimensions also would be 1 mile or less. Of the total number of control zones that will become Class D airspace areas, 38 percent would be reduced by 1 mile or less, and 2 percent would be reduced by more than 1 mile. Of the total number of control zones that will become Class E airspace areas, 62 percent would be reduced by 1 mile or less, and 2 percent would be reduced by more than 1 mile.

Transition areas have been reviewed under the revised criteria to ensure that the transition areas contain intended operations under IFR (e.g., provisions for rising terrain). On September 16, 1993, these transition areas will be classified as Class E airspace areas that extend upward from other than the surface.

The Proposal

This NPRM proposes to modify the control zones and transition areas described in FAA Order 7400.7, effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. This NPRM also proposes to modify the parallel Class D and Class E airspace descriptions in FAA Order 7400.9, effective September 16, 1993, which is also incorporated by reference in 14 CFR 7.1. When the Airspace Reclassification final rule becomes effective on September 16, 1993, each airspace description in § 171 of FAA Order 7400.7 will be changed as follows: (1) Deleted, if a control zone is associated with a TCA or an ARSA; (2) redesignated as a Class D airspace area, if a control zone is at an airport with an operating tower that is not associated with a TCA or an ARSA; or (3) redesignated as a Class E airspace area that extends upward from the surface, if a control zone is at an airport without an operating control tower. On the same date, each airspace description in § 181 of FAA Order 7400.7 will be redesignated as a Class E airspace area that extends upward from other than the surface. These proposals are based on a review of each control zone and transition area using the revised criteria discussed in this document. Because of the volume of airspace descriptions in the proposed reconfiguration, the proposed revisions are based on the airspace descriptions set forth as of April 30, 1991 in FAA Order 7400.7, effective November 1, 1991 and FAA Order 7400.9.

The FAA also proposes to change the names of the airspace areas listed below. These revised names are used when discussing the proposed modification to the airspace area.

The names of the following control zones and Class D or Class E airspace areas contained in FAA Order 7400.9 are proposed to be changed: Point Barrow, Alaska, to be revised as Barrow, Barrow/Wiley Post-Will Rogers Memorial, Airport, Alaska; Chesterfield, Spirit of Saint Louis, Missouri, to be revised as Saint Louis, Spirit of Saint Louis Airport, Missouri; Grandview, Missouri, to be revised as Kansas City, Richards-Gebaur Airport, Missouri; Vichy, Missouri, to be revised as Rolla/Vichy, Rolla National Airport, Missouri; Harrisburg, Pennsylvania, to be revised as Harrisburg, Capital City Airport, Pennsylvania; Middletown, Pennsylvania, to be revised as Harrisburg, Harrisburg International Airport, Pennsylvania; Weyers Cave, Virginia, to be revised as Staunton, Virginia; East Saint Louis Illinois, Illinois, to be revised as Cahokia, Saint Louis Downtown Parks Airport, Illinois; Aurora, Illinois, to be revised as Chicago, Aurora Municipal Airport, Illinois; Waukegan, Illinois, to be revised as Chicago, Waukegan Regional Airport, Illinois; Saint Charles, Illinois, to be revised as West Chicago, DuPage Airport, Illinois; Houghton, Michigan, to be revised as Hancock, Houghton County Memorial Airport, Michigan; Woodruff, Wisconsin, to be revised as Minocqua-Woodruff, Noble F. Lee Memorial Airport, Wisconsin; Westover, Massachusetts, to be revised as Chicopee Falls, Massachusetts; Greenwood Village, Arapahoe County Airport, Colorado, to be revised as Denver, Centennial Airport, Colorado; Grant County, Washington, to be revised as Moses Lake, Washington; Tacoma, Industrial Airport, Washington to be revised as Tacoma, Narrows Airport, Washington; Eglin AF Aux No. 9 Hurlburt Field, Florida, to be revised as Eglin Hurlburt Field, Florida; Palm Beach, Florida, to be revised as West Palm Beach, Florida; Albany, Dougherty County Airport, Georgia, to be revised as Albany, Southwest Georgia Regional Airport, Georgia; Chamblee, Georgia, to be revised as Atlanta Dekalb-Peachtree Airport, Georgia; Myrtle Beach, South Carolina, to be revised as North Myrtle Beach, South Carolina; Artesia, Mississippi to be revised as Columbus, Golden Triangle, Mississippi; Lake Tahoe, California, to be revised as South Lake Tahoe, California; Palomar, California, to be revised as Carlsbad, McClellan-Palomar Airport, California; Vandenberg Air Force Base, California, to be revised as Lompoc, Vandenberg Air Force Base, California; Sacramento, Municipal Airport, California, to be revised as Sacramento, Executive Airport, California; Merced, Municipal Airport, California, to be revised as Merced, Macready Field, California; Naval Air Station Barbers Point, Hawaii, to be revised as Barbers Point Naval Air Station, Hawaii; and Kapalua, Hawaii, to be revised as Kapalua, West Maui Airport, Hawaii.

The names of the following transition areas and Class E airspace areas

contained in FAA Order 7400.9 are proposed to be changed: Dutch Harbor, Alaska, to be revised as Unalaska, Alaska; Point Barrow, Alaska, to be revised as Barrow, Barrow/Wiley Post-Will Rogers Memorial Airport, Alaska; Arkansas City/Winfield, Strother Field, Kansas, to be revised as Winfield/Arkansas City, Kansas; Grandview, Missouri, to be revised as Kansas City, Richards-Gebaur Airport, Missouri; Kansas City, Missouri to be revised as Kansas City International Airport, Missouri; Vichy, Missouri, to be revised as Rolla/Vichy, Rolla National Airport, Missouri; Rolla, Missouri, to be revised as Rolla Downtown Airport, Missouri; Millard, Nebraska, to be revised as Omaha, Millard Airport, Nebraska; Great Bend, New York, to be revised as Fort Drum, New York; Weyers Cave, Virginia, to be revised as Staunton, Virginia; East Saint Louis Illinois, Illinois, to be revised as Cahokia, Saint Louis Downtown Parks Airport, Illinois; Zionsville, Indiana, to be revised as Indianapolis, Terry Airport, Indiana; McCordsville, Indiana, to be revised as Indianapolis, Brookside Airport, Indiana; Sault Sainte Marie, Municipal/Sanderson Field, Michigan, to be revised as Sault Sainte Marie, Sanderson Field, Michigan; Houghton, Michigan, to be revised as Hancock, Houghton County Memorial Airport, Michigan; Anoka, Minnesota, to be revised as Ramsey, Gateway North Industrial Airpark, Minnesota; Albany, Ohio, to be revised as Athens-Albany, Ohio University Airport, Ohio; Dayton Montgomery County, Ohio, to be revised as Dayton, General Airport South, Ohio; North Lima, Ohio, to be revised as Youngstown Elser Metro Airport, Ohio; Xenia, Ohio, to be revised as Dayton, Green County Airport, Ohio; Fort McCoy, Wisconsin, to be revised as Sparta, Fort McCoy Airport, Wisconsin; Woodruff, Wisconsin, to be revised as Minocqua-Woodruff, Noble F. Lee Memorial Field Airport, Wisconsin; Greenwood Village, Colorado, to be revised as Denver, Centennial Airport, Colorado; Cape Hatteras, North Carolina, to be revised as Hatteras, North Carolina; Laurinburg, North Carolina, to be revised as Maxton, Maxton-Laurinburg Airport, North Carolina; Palm Beach, Florida, to be revised as West Palm Beach, Florida; Cincinnati, Ohio, to be revised as Covington, Kentucky; Winnsboro, Texas, to be revised as Mount Pleasant, Texas.

Control Zones for the Primary Airport of a TCA or an ARSA

Proposed Reconfiguration of Airspace Areas for the Primary Airport of a TCA

The FAA proposes to modify the control zones contained in § 171 of FAA Order 7400.7 for the following airports to be congruent with the associated TCA. These control zones include those for the primary airport of the TCA and other airports within the TCA's surface area. The lateral limits of the control zones are proposed to meet the lateral limits of the surface areas of the TCA and the vertical limits are proposed to meet the vertical limits of the TCA. On September 16, 1993, the effective date of the Airspace Reclassification final rule, these control zones will no longer exist.

Name	State
FAA Region: Central	
Kansas City, Kansas City International	MO
Saint Louis, Saint Louis International Airport.	MO
FAA Region: Eastern	
Washington, National Airport and Andrews Air Force Base.	DC
Baltimore, Baltimore Washington International Airport.	MD
Newark	NJ
New York, John F. Kennedy International Airport and LaGuardia Airport.	NY
Philadelphia	PA
Pittsburgh, Pittsburgh International Airport.	PA
Chantilly, Washington Dulles International Airport.	VA
FAA Region: Great Lakes	
Chicago, O'Hare International Airport	IL
Detroit, Detroit Metropolitan Wayne County Airport.	MI
Minneapolis, Minneapolis-St. Paul International Airport.	MN
Cleveland, Cleveland-Hopkins International Airport.	OH
FAA Region: New England	
Boston	MA
FAA Region: Northwest Mountain	
Denver, Stapleton International Airport	CO
Salt Lake City	UT
FAA Region: Southern	
Miami, Miami International Airport	FL
Orlando, Orlando International Airport	FL
Tampa, Tampa International Airport	FL
Atlanta, Hartsfield International Airport	GA
Charlotte	NC
Memphis, Memphis International Airport	TN
FAA Region: Southwest	
New Orleans, New Orleans International Airport.	LA
Dallas, Dallas-Forth Worth International Airport and Love Field.	TX
Houston, Houston International Airport	TX
FAA Region: Western-Pacific	
Phoenix, Sky Harbor International Airport.	AZ
Los Angeles, Los Angeles International Airport.	CA
San Diego, San Diego International/Lindberg Field.	CA
San Francisco, San Francisco International Airport.	CA
Honolulu, Honolulu International Airport	HI
Las Vegas, McCarren International Airport and Nellis Air Force Base.	NV

The FAA proposes to modify the control zone for the Seattle-Tacoma International Airport, Washington, contained in § 171 of FAA Order 7400.7, to be within a 4-mile radius of the Seattle VORTAC. This proposed control zone would extend beyond the surface area of the Seattle TCA. The FAA believes that the proposed control zone is necessary for aircraft that operate under VFR over the Puget Sound and near the surface area of the Seattle TCA. At one point, the surface area of the Seattle TCA terminates at less than 1 nautical mile from the airport.

Proposed Reconfiguration of Airspace Areas for the Primary Airport of an ARSA

The FAA proposes to modify the control zones contained in § 171 of FAA Order 7400.7 for the airports listed below to be congruent with the associated ARSA. The lateral limits of the control zones are proposed to meet the lateral limits of the surface areas of the ARSA and the vertical limits are proposed to meet the vertical limits of the ARSA. On September 16, 1993, the effective date of the Airspace Reclassification final rule, these control zones will no longer exist.

Name	State
FAA Region: Alaskan	
Anchorage, Anchorage International Airport.	AK
FAA Region: Central	
Cedar Rapids	IA
Des Moines	IA
Wichita, Mid-Continent Airport	KS
Lincoln	NE
Offut Air Force Base	NE
Omaha, Eppley Airfield	NE
FAA Region: Eastern	
Atlantic City, Atlantic City International Airport.	NJ
Albany	NY
Buffalo	NY
Islip	NY
Rochester, Rochester International Airport.	NY
Syracuse	NY
Allentown	PA
Norfolk, Norfolk International Airport	VA
Richmond	VA
Roanoke	VA
Charleston	WV
FAA Region: Great Lakes	
Champaign-Urbana, University of Illinois-Willard Airport.	IL
Chicago, Midway Airport	IL
Moline	IL
Peoria, Greater Peoria Regional Airport	IL
Springfield	IL
Evansville, Evansville Regional Airport	IN
Fort Wayne	IN
Indianapolis, Indianapolis International Airport.	IN
South Bend, Michigana Regional Airport	IN
Flint	MI
Grand Rapids	MI
Lansing	MI
Akron, Akron-Canton Regional Airport	OH

Name	State
Columbus, Port Columbus International Airport.	OH
Dayton, James Cox-Dayton International Airport.	OH
Toledo	OH
Green Bay, Austin Straubel International Airport.	WI
Madison	WI
Milwaukee, General Mitchell International Airport.	WI
FAA Region: New England	
Windsor Locks, Bradley International Airport.	CT
Portland	ME
Manchester	NH
Providence	RI
Burlington	VT
FAA Region: Northwest Mountain	
Colorado Springs, Colorado Springs Municipal Airport.	CO
Boise	ID
Portland, Portland International Airport	OR
Spokane, Fairchild Air Force Base	WA
Spokane, International Airport	WA
Whidbey Island Naval Air Station	WA
FAA Region: Southern	
Birmingham	AL
Huntsville, Huntsville Carl T. Jones Field	AL
Mobile, Mobile Regional Airport	AL
Daytona Beach	FL
Fort Lauderdale, Fort Lauderdale-Hollywood International Airport.	FL
Fort Myers, Southwest Florida Regional Airport.	FL
Jacksonville, Jacksonville International Airport.	FL
Milton Naval Air Station Whiting Field	FL
Palm Beach	FL
Pensacola Naval Air Station	FL
Pensacola, Pensacola Regional Airport	FL
Sarasota	FL
Talahassee, Tallahassee Regional Airport.	FL
Columbus, Metropolitan Airport	GA
Savannah, Savannah International Airport.	GA
Covington, Cincinnati-Northern Kentucky International Airport.	KY
Lexington	KY
Louisville, Staniford Field	KY
Columbus, Air Force Base	MS
Jackson, Jackson International Airport	MS
Fayetteville	NC
Fort Bragg-Pope Air Force Base	NC
Greensboro, Greensboro-Piedmont Triad International Airport.	NC
Raleigh, Raleigh-Durham International Airport.	NC
San Juan, San Juan International Airport.	PR
Charleston	SC
Columbia	SC
Greer	SC
Shaw Air Force Base	SC
Chattanooga	TN
Knoxville	TN
Nashville, Nashville International Airport	TN
FAA Region: Southwest	
Little Rock, Adams Field	AR
Baton Rouge	LA
Lafayette	LA
Shreveport, Barksdale Air Force Base	LA
Shreveport, Shreveport Regional Airport	LA
Albuquerque	NM
Oklahoma City, Tinker Air Force Base	OK
Oklahoma City, Will Rogers World Airport.	OK
Tulsa, Tulsa International Airport	OK
Abilene, Abilene Regional Airport	TX
Abilene, Dyess Air Force Base	TX
Amarillo	TX
Austin, Robert Mueller Municipal Airport	TX
Corpus Christi, Corpus Christi International Airport.	TX
Del Rio, Laughlin Air Force Base	TX
El Paso	TX
Harlingen	TX
Houston, William P. Hobby Airport	TX
Lubbock, Lubbock International Airport	TX
Midland	TX
San Antonio, San Antonio International Airport.	TX
FAA Region: Western-Pacific	
Tucson, Davis-Monthan Air Force Base	AZ
Tucson, Tucson International Airport	AZ
Burbank-Glendale-Passadena	CA
El Toro	CA
Fresno	CA
Marysville, Beale Air Force Base	CA
Merced, Castle Air Force Base	CA
Monterey	CA
Oakland	CA
Ontario	CA
Riverside, March Air Force Base	CA
Sacramento, Mather Air Force Base	CA
Sacramento, McClellan Air Force Base	CA
Sacramento, Metropolitan Airport	CA
San Bernardino, Norton Air Force Base	CA
San Jose, San Jose International Airport	CA
Santa Ana, John Wayne Airport/Orange County.	CA
Santa Barbara	CA
Kahului	HI
Reno, Cannon International Airport	NV

Proposed Extensions of Airspace Areas

The FAA proposes that the revised control zones for the following airports include an area that extends upward from the surface beyond the surface area of the TCA or ARSA. In addition, the FAA proposes to amend Subpart E of FAA Order 7400.9, effective September 16, 1993, by establishing the areas listed below that extend beyond the surface area of the TCAs or ARSAs as separate Class E airspace areas. Like other Class E airspace areas, these areas would terminate at the overlying or adjacent airspace and would be indicated on visual aeronautical charts by a segmented magenta line.

Name	State
FAA Region: Alaskan	
Anchorage, Anchorage International Airport.	AK
FAA Region: Eastern	
Atlantic City, Atlantic City International Airport.	NJ
FAA Region: Great Lakes	
Champaign-Urbana, University of Illinois-Willard Airport.	IL
Fort Wayne	ID
Toledo	OH
Madison	WI
FAA Region: New England	
Windsor Locks, Bradley International Airport.	CT
Providence	RI
Burlington	VT
FAA Region: Northwest Mountain	
Colorado Springs, Colorado Springs Municipal Airport.	CO
Boise	ID
Portland, Portland International Airport	OR
Spokane, Fairchild Air Force Base	WA
FAA Region: Southern	
Birmingham	AL
Huntsville, Huntsville-Carl T. Jones Field	AL
Fort Lauderdale, Fort Lauderdale-Hollywood International Airport.	FL
Palm Beach	FL
Sarasota	FL
Tallahassee, Tallahassee International Airport.	FL
Fayetteville	NC
Greensboro, Greensboro-Piedmont Triad International Airport.	NC
Raleigh, Raleigh-Durham International Airport.	NC
Nashville, Nashville International Airport	TN
FAA Region: Southwest	
Little Rock, Adams Field	AR
Baton Rouge	LA
Albuquerque	NM
Abiline, Abilene Regional Airport	TX
Abiline, Dyess Air Force Base	TX
Corpus Christi, Corpus Christi International Airport.	TX
Del Rio, Laughlin Air Force Base	TX
El Paso	TX
Harlingen	TX
San Antonio, San Antonio International Airport.	TX
FAA Region: Western-Pacific	
Tucson, Davis-Monthan Air Force Base	AZ
Tuscon, Tucson International Airport	AZ
Burbank-Glendale-Pasadena	CA
Fresno	CA
Marysville, Beale Air Force Base	CA
Merced, Castle Air Force Base	CA
Monterey	CA
Ontario	CA
Riverside, March Air Force Base	CA
Sacramento, Mather Air Force Base	CA
Sacramento, Metropolitan Airport	CA
San Bernardino, Norton Air Force Base	CA
San Diego, San Diego International/Lindbergh Field and Miramer Naval Air Station.	CA
San Francisco, San Francisco International Airport.	CA
San Jose, San Jose International Airport	CA
Santa Barbara	CA
Honolulu, Honolulu International Airport	HI
Kahului	HI
Reno, Cannon International Airport	NV

The FAA proposes that the revised control zone for the El Paso, Texas ARSA include an area that extends upward from the surface beyond the surface area of the ARSA. In addition, the FAA propose to amend Subpart D of FAA Order 7400.9, effective September 16, 1993, by establishing the area that extends beyond the surface area of the El Paso ARSA, and the portion of the Seattle, Washington control zone that extends beyond the surface area of the Seattle TCA as separate Class D airspace areas. The Class D airspace for Seattle would extend upward from the surface to, but not including, 2,000 feet MSL; the Class D airspace area for El Paso would extend upward from the surface to, but not including 5,200 feet MSL.

Unlike the proposed extension of airspace areas discussed below, these

extension areas would require aircraft operating under VFR to communicate with the air traffic control facility having jurisdiction over that area. The FAA is of the opinion that the proposed Class D airspace areas are necessary for aircraft that operate under VFR. At one point, the surface area of the Seattle TCA terminates at less than 1 nautical mile from the Seattle airport and Biggs Army Air Field is approximately 1 nautical mile from the El Paso ARSA surface area. The FAA is of the opinion that the proposed Class D airspace areas would be less restrictive than revising the surface areas of the Seattle TCA or the El Paso ARSA.

Control Zones for Airports With Operating Control Towers That Are Not the Primary Airport within a TCA or an ARSA

The FAA proposes to modify the following control zones contained in § 171 of FAA Order 7400.7 according to the revised criteria addressed in this NPRM. The proposed lateral limits of the control zones are measured in nautical miles and the proposed vertical limits are designated at a specific altitude above the surface expressed in MSL. The FAA also proposed to amend the parallel airspace descriptions of Class D airspace areas in subpart D of FAA Order 7400.9, which becomes effective September 16, 1993.

Proposed Reconfiguration of Airspace Areas by Converting the Current Radius to Nautical Miles and Establishing the Vertical Limit at 2,500 Feet Above the Surface

Name	State
FAA Region: Alaskan	
Shemya	AK
FAA Region: Central	
Joplin	MO
Grand Island	NE
FAA Region: Eastern	
Baltimore, Glenn Martin Airport	MD
Johnstown	PA
Latrobe	PA
Newport News	VA
Norfolk, Naval Air Station	VA
FAA Region: Great Lakes	
Elkhart	IN
Mount Clemens	MI
Bismarck	ND
Rapid City, Regional Airport	SD
FAA Region: New England	
Falmouth	MA
Westfield	MA
Brunswick	ME
North Kingstown	RI
FAA Region: Northwest Mountain	
Aspen	CO
Fort Carson	CO
Coeur d'Alene	ID
Twin Falls	ID
Great Falls, International Airport	MT
Odgen, Hill Air Force Base	UT
Ogden, Ogden-Hinkley Airport	UT
Fort Lewis	WA
Pasco	WA
Walla Walla	WA
Casper	WY
Gillette	WY
FAA Region: Southern	
Tuscaloosa	AL
Melbourne	FL
Sanford	FL
Augusta	GA
North	SC
Tri-City	TN
FAA Region: Southwest	
Lawton	OK
Oklahoma City, Wiley Post Airport	OK
Brownsville	TX
Corpus Christi Naval Air Station	TX
Dallas, Naval Air Station	TX
Kingsville	TX
Larado	TX
FAA Region: Western-Pacific	
Flagstaff	AZ
Fort Huachua	AZ
Grand Canyon	AZ
Phoenix, Luke Air Force Base	AZ
Scottsdale	AZ
Yuma	AZ
Camarillo	CA
Concord	CA
Edwards Air Force Base	CA
El Centro Naval Air Facility	CA
Fairfield, Travis Air Force Base	CA
Fort Ord, Fritzsche Army Air Field	CA
Imperial Beach	CA
LeMoore Naval Air Station	CA
Lompoc, Vandenberg Air Force Base	CA
Long Beach	CA
Los Alamitos Army Air Field	CA
Oxnard/Ventura	CA
Palm Springs	CA
Palmdale	CA
Point Mugu Naval Air Station	CA
Redding	CA
Sacramento, Executive Airport	CA
San Diego, Brown Field	CA
San Luis Obispo	CA
San Nicolas Island	CA
Santa Maria	CA
Santa Rosa	CA
South Lake Tahoe	CA
Stockton	CA
Torrance	CA
Twentynine Palms Expeditionary Air Field.	CA
Van Nuys	CA
Barbers Point Naval Air Station	HI
Hilo International Airport, General Lyman Field.	HI
Honolulu, Wheeler Air Force Base	HI
Kailua-Kona	HI
Kaneohe Marine Corp Air Station	HI
Molokai	HI
Pohakuloa, Bradshaw Air Force Base	HI
Kwajalein Island	MQ

Proposed Reconfiguration of Airspace Areas by Reducing the Radius by 1 Mile or Less and Establishing the Vertical Limit at 2,500 Feet Above the Surface

Name	State
FAA Region: Alaskan	
Bethel	AK
FAA Region: Central	
Dubuque	IA
Sioux City	IA
Waterloo	IA
Fort Levenworth	KS
Fort Riley	KS
Hutchinson	KS
Manhattan	KS
Olathe, Johnson County Industrial Airport.	KS
Olathe, Johnson County Executive Airport.	KS
Topeka, Phillip Billard Airport	KS
Cape Girardeau	MO
Columbia	MO
Fort Leonard Wood	MO
Jefferson City	MO
Kansas City, Richards-Gebaur Airport	MO
Kansas City, Downtown Airport	MO
Saint Joseph	MO
Saint Louis, Spirit of Saint Louis Airport	MO
Springfield	MO
FAA Region: Eastern	
Wilmington	DE
Hagerstown	MD
Caldwell	NJ
Lakehurst	NJ
Morristown	NJ
Teterboro	NJ
Trenton	NJ
Binghamton	NY
Elmira	NY
Farmingdale	NY
Ithaca	NY
Poughkeepsie	NY
Utica	NY
White Plains	NY
Beaver Falls	PA
Erie	PA
Harrisburg, International Airport	PA
Lancaster	PA
North Philadelphia	PA
Pittsburgh, Allegheny Airport	PA
Reading	PA
Williamsport	PA
Charlottesville	VA
Lynchburg	VA
Quantico	VA
Clarksburg	WV
Lewisburg	WV
Martinsburg	WV
Morgantown	WV
Parkersburg	WV
Wheeling	WV
FAA Region: Great Lakes	
Alton	IL
Belleville	IL
Cahokia, Saint Louis Downtown Parks Airport.	IL
Carbondale	IL
Chicago, Aurora Municipal Airport	IL
Chicago, Waukegan Regional Airport	IL
Glenview	IL
Marion	IL
Quincy	IL
Bloomington	IN
Columbus	IN
Gary	IN
Lafayette, Purdue University Airport	IN
Detroit, Detroit City Airport	MI
Jackson	MI
Kalamazoo/Battle Creek International Airport.	MI
Muskegon	MI
Pontiac	MI
Duluth, Duluth International Airport	MN
Minneapolis, Crystal Airport	MN
Minneapolis, Flying Cloud Airport	MN
Rochester	MN
Saint Paul	MN
Grand Forks, Grand Forks International Airport.	ND
Minot, Minot International Airport	ND
Cincinnati, Municipal-Luken Field Airport	OH
Cleveland, Burke Lakefront	OH
Cleveland, Cuyahoga County Airport	OH
Columbus, Bolton Field Airport	OH
Columbus, Ohio State University	OH
Janesville	WI
Waukesha	WI
FAA Region: New England	
Bridgeport	CT

Name	State
Danbury	CT
Hartford	CT
New Haven	CT
Beverly	MA
Lawrence	MA
Martha's Vineyard	MA
New Bedford	MA
Worcester	MA
Lebanon	NH
Nashua	NH
FAA Region: Northwest Mountain	
Lewiston	ID
Medford	OR
Newport	OR
Pendleton	OR
Portland, Hillsboro	OR
Portland, Troutdale	OR
Salem	OR
Bellingham	WA
Olympia	WA
Spokane, Felts Field	WA
Tacoma, Narrows Airport	WA
Yakima	WA
FAA Region: Southern	
Montgomery	AL
Bartow	FL
Fort Lauderdale, Executive Airport	FL
Fort Pierce	FL
Gainesville	FL
Jacksonville, Craig Municipal Airport	FL
Jupiter	FL
Key West	FL
Lakeland	FL
Mayport	FL
Miami, Opa Locka Airport	FL
Miami, Tamiami Airport	FL
Naples	FL
Orlando, Orlando Executive Airport	FL
Pompano Beach	FL
Saint Petersburg, Albert-Whitted Airport	FL
Saint Petersburg, Saint Petersburg-Clearwater International Airport.	FL
Titusville	FL
Vero Beach	FL
Albany, Southwest Georgia Regional Airport.	GA
Atlanta, Fulton County Airport-Brown Field.	GA
Atlanta, Dekalb-Peachtree Airport	GA
Columbus, Lawson Army Air Field	GA
Macon	GA
Valdosta, Regional Airport	GA
Fort Knox	KY
Louisville Bowman Field	KY
Owensboro	KY
Biloxi, Kessler Air Force Base	MS
Columbus, Golden Triangle Airport	MS
Greenville	MS
Gulfport	MS
Asheville	NC
Elizabeth City	NC
Kinston	NC
MacKall Army Air Field	NC
Oak Grove	NC
Simmons Army Air Field	NC
Florence	SC
North Myrtle Beach	SC
Smyrna	TN
FAA Region: Southwest	
Fayetteville	AR
Springdale	AR
Texarkana	AR
Alexandria, Esler Regional Airport	LA
Houma	LA
Lake Charles, Chennault Industrial Airpark.	LA
Monroe	LA
Clovis	NM
Hobbs	NM
Roswell	NM
Santa Fe	NM
Ardmore	OK
Tulsa, Richard Lloyd Jones, Jr. Airport	OK
College Station	TX
Dallas, Redbird Airport	TX
Fort Worth, Meacham Field	TX
Houston, David Wayne Hooks Memorial Airport.	TX
McAllen	TX
San Antonio, Stinson	TX
Tyler	TX
FAA Region: Western-Pacific	
Phoenix, Goodyear	AZ
Chico	CA
Lancaster	CA
Modesto City	CA

Proposed Reconfiguration of Airspace Areas by Reducing the Radius by an Amount Greater Than or Equal to 1.1 Miles and Less Than 2.1 Miles and Establishing the Vertical Limit at 2,500 Feet Above the Surface

FAA Region: Alaskan	
Juneau	AK
Kodiak	AK
FAA Region: Eastern	
Harrisburg, Capital City Airport	PA
Huntington	WV
FAA Region: Great Lakes	
Fargo	ND
FAA Region: Northwest Mountain	
Tacoma, McChord Air Force Base	WA
Cheyenne	WY
FAA Region: Southwest	
Beaumont	TX

Proposed Reconfiguration of Airspace Areas by Reducing the Radius by an Amount Greater Than or Equal to 2.1 Miles and Establishing the Vertical Limit at 2,500 Feet Above the Surface

FAA Region: Eastern	
Wilkes-Barre	PA
FAA Region: Western-Pacific	
Prescott	AZ

Proposed Reconfiguration of Airspace Areas by Expanding the Radius by 1 Mile or Less and Establishing the Vertical Limit at 2,500 Feet Above the Surface

FAA Region: Alaskan	
Adak	AK
Fairbanks, Eielson Air Force Base	AK
Fairbanks, Fairbanks International Airport.	AK
Fairbanks, Wainwright Army Airfield	AK
Galena	AK
Kenai	AK
King Salmon	AK
FAA Region: Central	
Salina	KS
Topeka, Forbes Airfield	KS
Wichita, McConnell Air Force Base	KS
Knob Noster, Whiteman	MO
FAA Region: Eastern	
Dover	DE
Aberdeen	MD
Patuxent River	MD
Wrightstown, McGuire Air Force Base	NJ
Calverton	NY
Newburgh	NY
Niagara Falls	NY
Plattsburg	NY
Rome	NY
Wheeler Sack	NY
Fort Indiantown Gap	PA
Willow Grove	PA
Chincoteague	VA
Fort Belvior	VA
Fort Eustis	VA
Hampton Roads	VA
Oceana, Naval Air Station	VA
FAA Region: Great Lakes	
Decatur	IL
Rockford	IL
Anderson	IN
Grissom Air Force Base	IN
Muncie	IN
Terre Haute	IN
Alpena	MI
Ann Arbor	MI
Battle Creek, W.K. Kellogg Airport	MI
Detroit, Willow Run Airport	MI
K.I. Sawyer Air Force Base	MI
Saginaw, Tri-City Airport	MI
Traverse City	MI
Grand Forks Air Force Base	ND
Minot Air Force Base	ND
Dayton, Wright Patterson Air Force Base.	OH
Mansfield	OH
Springfield	OH
Willoughby	OH
Youngstown, Youngstown Municipal Airport.	OH
Rapid City, Ellsworth Air Force Base	SD
Sioux Falls	SD
Appleton	WI
Camp Douglas	WI
LaCrosse	WI
Milwaukee, Lawrence J. Timmerman Field.	WI
Oshkosh	WI
FAA Region: New England	
Groton	CT
Bedford	MA
Chicopee Falls	MA
Fort Devens	MA
Hyannis	MA
Nantucket	MA
Norwood	MA
South Weymouth	MA
Bangor	ME
Portsmouth	NH
FAA Region: Northwest Mountain	
Broomfield	CO
Denver, Centennial Airport	CO
Grand Junction	CO
Pueblo	CO
Pocatello	ID
Billings	MT
Helena	MT
Missoula	MT
Eugene	OR
Everett	WA
FAA Region: Southern	
Dothan	AL
Fort Rucker	AL
Troy	AL
Cocoa Beach, Patrick Air Force Base	FL
Eglin, Air Force Auxiliary No. 3 Duke Field.	FL
Eglin, Hurlburt Field	FL
Hollywood	FL
MacDill Air Force Base	FL
Panama City	FL
Atlanta Dobbins Air Force Base	GA
Fort Stewart	GA
Savannah Hunter Army Air Field	GA
Valdosta Moody Air Force Base	GA
Paducah, Barkley Regional Airport	KY
Meridian Key Field	MS
Bogue, Marine Corps Auxiliary Landing Field.	NC
Cherry Point Marine Corps Air Station	NC
Jacksonville, New River Marine Corps Air Station.	NC
Wilmington	NC
Greenville	SC
Myrtle Beach Air Force Base	SC
Memphis Naval Air Station	TN
FAA Region: Southwest	
Blytheville	AR
Fort Smith	AR
Alexandria, England Air Force Base	LA
Fort Polk	LA
Lake Charles, Lake Charles Regional Airport.	LA

Name	State
New Iberia	LA
New Orleans, Lakefront Airport	LA
New Orleans, Naval Air Station	LA
Shreveport, Downtown Airport	LA
Alamogordo	NM
Farmington	NM
Altus	OK
Austin, Bergstrom Air Force Base	TX
Beeville	TX
Dallas, Addison Airport	TX
Fort Worth, Alliance Airport	TX
Fort Worth, Carswell Air Force Base	TX
Greenville	TX
Hood Army Air Field	TX
Houston, Ellington Air Force Base	TX
Longview	TX
Lubbock, Reese Air Force Base	TX
Robert Gray Army Air Field	TX
San Angelo	TX
San Antonio, Kelly Air Force Base	TX
San Antonio, Randolph Air Force Base	TX
Waco	TX
FAA Region: Western-Pacific	
Chandler	AZ
Bakersfield	CA
Carlsbad, McClellan-Palomar	CA
China Lake Naval Air Facility	CA
Crows Landing Naval Auxiliary Landing Facility.	CA
San Diego, Montgomery Field	CA
Santa Monica	CA
Victorville, George Air Force Base	CA
Proposed Reconfiguration of Airspace Areas by Expanding the Radius by an Amount Greater Than or Equal to 1.1 Miles and Less Than 2.1 Miles and Establishing the Vertical Limit at 2,500 Feet Above the Surface	
FAA Region: Great Lakes	
Chicago, Merrill C. Meigs Field	IL
West Chicago, DuPage Airport	IL
FAA Region: New England	
Limestone	ME
FAA Region: Northwest Mountain	
Idaho Falls	ID
Mountain Home	ID
Great Falls, Malstrom Air Force Base	MT
Klamath Falls	OR
Moses Lake	WA
Renton	WA
Seattle, Boeing Field, King County International Airport.	WA
FAA Region: Southern	
Eglin Air Force Base	FL
Homestead	FL
Jacksonville Naval Air Station Cecil Field.	FL
Tyndall Air Force Base	FL
Fort Campbell	KY
Meridian Naval Air Station	MS
Goldsboro, Seymour Johnson Air Force Base.	NC
Roosevelt Roads	PR
Beaufort Marine Corps Air Station	SC
FAA Region: Western-Pacific	
Phoenix, Deer Valley	AZ
Camp Pendleton	CA
El Monte	CA
Livermore	CA
Napa	CA
San Diego, San Diego-Gillespie Field	CA
Fallon Naval Air Facility	NV
Proposed Reconfiguration of Airspace Areas by Expanding the Radius by an Amount Greater Than or Equal to 2.1 Miles and Establishing the Vertical Limit at 2,500 Feet Above the Surface	
FAA Region: Great Lakes	
Bloomington	IL

Name	State
Proposed Reconfiguration of Airspace Areas by Converting the Current Radius to Nautical Miles and Establishing the Vertical Limit at Less Than 2,500 Feet Above the Surface	
FAA Region: Alaskan	
Anchorage, Bryant Army Heliport	AK
Anchorage, Lake Hood	AK
Anchorage, Merrill Field	AK
FAA Region: Great Lakes	
Sault Sainte Marie	ON
FAA Region: Western-Pacific	
Alameda Naval Air Station	CA
Fullerton	CA
Los Angeles, Hawthorne Municipal Airport.	CA
Mountain View, Moffett Field	CA
Riverside, Municipal Airport	CA
Salinas	CA
Tustin Marine Corp Air Station	CA
Lihue	HI
Proposed Reconfiguration of Airspace Areas by Reducing the Radius by 1 Mile or Less and Establishing the Vertical Limit at Less Than 2,500 Feet Above the Surface	
FAA Region: Eastern	
Westhampton Beach	NY
FAA Region: Great Lakes	
Columbus, Rickenbacker Airport	OH
FAA Region: Southern	
Fort Myers, Page Field	FL
Winston-Salem	NC
FAA Region: Southwest	
Enid, Woodring Municipal Airport	OK
FAA Region: Western-Pacific	
Hayward	CA
Proposed Reconfiguration of Airspace Areas by Reducing the Radius by an Amount Greater Than or Equal to 1.1 Miles and Less Than 2.1 Miles and Establishing the Vertical Limit at Less Than 2,500 Feet Above the Surface	
FAA Region: Southern	
Charlotte Amalie-Cyril E. King Airport	VI
Proposed Reconfiguration of Airspace Areas by Expanding the Radius by 1 Mile or Less and Establishing the Vertical Limit at Less Than 2,500 Feet Above the Surface	
FAA Region: Northwest Mountain	
Colorado Springs, United States Air Force Academy.	CO
FAA Region: Southwest	
Enid, Vance Air Force Base	OK
Wichita Falls	TX
FAA Region: Western-Pacific	
Glendale	AZ
La Verne	CA
Palo Alto	CA
San Carlos	CA
San Jose, Reid Hillview Airport	CA
Guam Island, Agana Naval Air Station	CQ
Guam Island, Anderson Air Force Base	CQ
Proposed Reconfiguration of Airspace Areas by Expanding the Radius by an Amount Greater Than or Equal to 1.1 Miles and Less Than 2.1 Miles and Establishing the Vertical Limit at Less Than 2,500 Feet Above the Surface	
FAA Region: Northwest Mountain	
Abbotsford	BC
FAA Region: Southern	
Christiansted-St. Croix	VI
FAA Region: Western-Pacific	
Falcon Field Mesa	AZ
Chino	CA
San Clemente Island	CA
San Diego, North Island Naval Air Station	CA
North Las Vegas	NV

Name	State
Proposed Reconfiguration of Airspace Areas by Expanding the Radius by 1 Mile or Less and Establishing the Vertical Limit at More Than 2,500 Feet Above the Surface	
FAA Region: Alaskan	
Anchorage, Elmendorf	AK
FAA Region: Southern	
Jacksonville Naval Air Station	FL
Proposed Reconfiguration of Airspace Area by Changing the Shape of the Existing Airspace Area and Establishing the Vertical Limit at More Than 2,500 Feet Above the Surface	
FAA Region: Western-Pacific	
Miramar Naval Air Station	CA
Proposed Reconfiguration of Airspace Areas by Establishing the Following Airspace Areas as Separate Airspace Areas (All Are Included in Existing Control Zones)	
FAA Region: New England	
Stratford	CT
FAA Region: Southern	
White House Navy Outlying Field	FL
Jackson, Hawkins Field	MS
San Juan, Isla Grande Airport	PR

Control Zones for Airports Without Operating Control Towers

The FAA proposes to modify the following control zones contained in § 171 of FAA Order 7400.1 according to the revised criteria addressed in this NPRM. The proposed lateral limits of the control zones are measured in nautical miles and the proposed vertical limits are designated upward from the surface and terminate at the overlying or adjacent controlled airspace. The FAA also proposes to amend the parallel airspace descriptions of Class E airspace areas in Subpart E of FAA Order 7400.9, which becomes effective September 16, 1993.

Name	State
Proposed Reconfiguration of Airspace Areas by Converting the Current Radius to Nautical Miles with No Other Modification	
FAA Region: Eastern	
Schenectady	NY
Bradford	PA
FAA Region: Great Lakes	
Sault Sainte Marie, Chippewa County Airport.	MI
Brainerd	MN
Findlay	OH
Pierre	SD
Watertown	SD
Lone Rock	WI
FAA Region: New England	
Presque Isle	ME
FAA Region: Northwest Mountain	
Alamosa	CO
Cortez	CO
Durango	CO
Eagle	CO
Montrose	CO
Coppertown	MT
Kalispell	MT
Lewistown	MT
Provo	UT
Rawlins	WY

Name	State
Riverton	WY
Rock Springs	WY
FAA Region: Southern	
Mobile, Brookley Airport	AL
Spartanburg	SC
FAA Region: Southwest	
El Dorado	AR
Harrison	AR
Jonesboro	AR
Deming	NM
Bartlesville	OK
Lufkin	TX
FAA Region: Western-Pacific	
Douglas	AZ
Winslow	AZ
Blythe	CA
Crescent City	CA
Merced, Macready Field	CA
Needles	CA
Visalia	CA
Saipan Island	CQ
Kapalua, West Maui Airport	HI
Lanai	HI
Waimea-Kohala	HI
Midway Island, Midway Naval Air Facility	MQ
Elko	NV
Tonopah	NV

Proposed Reconfiguration of Airspace Areas by Reducing the Radius by 1 Mile or Less

FAA Region: Alaskan	
Barrow, Barrow/Wiley Post-Will Rogers Memorial Airport.	AK
Bettles	AK
Big Delta	AK
Cordova, Smith Airport	AK
Dillingham	AK
Gulkana	AK
Homer	AK
Iliama	AK
Kotzebue	AK
McGrath	AK
Nome	AK
Northway	AK
Sitka	AK
Talkeetna	AK
Tanana	AK
Unalakleet	AK
Yakutat	AK
FAA Region: Central	
Burlington	IA
Clinton	IA
Davenport	IA
Fort Dodge	IA
Mason City	IA
Ottumwa	IA
Chanute	KS
Dodge City	KS
Emporia	KS
Garden City	KS
Goodland	KS
Liberal	KS
Kirksville	MO
Rolla/Vichy, Rolla National Airport	MO
Alliance	NE
Chadron	NE
Columbus	NE
Hasting	NE
Kearney	NE
McCook	NE
Norfolk	NE
North Platte	NE
Sidney	NE
FAA Region: Eastern	
Salisbury	MD
Millville	NJ
Glens Falls	NY
Jamestown	NY
Massena	NY
Watertown	NY
Altoona	PA
Du Bois	PA
Franklin	PA
Philipsburg	PA
State College	PA
Staunton	VA
Bluefield	WV
Elkins	WV
FAA Region: Great Lakes	
Danville	IL
Galesburg	IL
Mount Vernon	IL
Benton Harbor	MI
Escanaba	MI
Bemidji	MN
Fairmont	MN
International Falls	MN
Mankato	MN
Redwood Falls	MN
Thief River Falls	MN
Devils Lake	ND
Jamestown	ND
Williston	ND
Akron, Fulton International Airport	OH
Wilmington	OH
Zanesville	OH
Aberdeen	SD
Mitchell	SD
Yankton	SD
Minocqua-Woodruff, Noble F. Lee Memorial Airport.	WI
FAA Region: New England	
Augusta	ME
Concord	NH
FAA Region: Northwest Mountain	
Akron	CO
Trinidad	CO
Burley	ID
Glasgow	MT
Havre	MT
Livingston	MT
Miles City	MT
Astoria	OR
Baker	OR
Burns	OR
North Bend	OR
Cedar City	UT
Vernal	UT
Bremerton	WA
Hoquiam	WA
Port Angeles	WA
Pullman	WA
Wenatchee	WA
Cody	WY
Laramie	WY
Worland	WY
FAA Region: Southern	
Anniston	AL
Muscle Shoals	AL
Crestview	FL
Alma	GA
Athens	GA
Brunswick, Glynco Jetport	GA
Brunswick, Malcolm/McKinnon	GA
Bowling Green	KY
Greenwood	MS
McComb	MS
Pine Belt	MS
Tupelo	MS
Hickory	NC
Jacksonville, Albert J. Ellis	NC
New Bern	NC
Rocky Mount	NC
Mayaguez	PR
Ponce	PR
Anderson	SC
Crossville	TN
Dyersburg	TN
Jackson	TN
FAA Region: Southwest	
Pine Bluff	AR
Las Vegas	NM
Truth or Consequences	NM
Tucumcari	NM
Gage	OK
Hobart	OK
McAlester	OK
Ponca City	OK
Alice	TX
Childress	TX
Dalhart	TX
Galveston	TX
Mineral Wells	TX
Palacios	TX
Temple	TX
Wink	TX
FAA Region: Western-Pacific	
Arcata	CA
Marysville, Yuba County	CA
Red Bluff	CA
Thermal	CA

Proposed Reconfiguration of Airspace areas by Reducing the Radius by an Amount Greater Than or Equal to 1.1 Miles and Less Than 2.1 Miles

FAA Region: Eastern	
Hot Springs	VA
Beckley	WV
FAA Region: New England	
Montpelier	VT
FAA Region: Northwest Mountain	
Bozeman	MT

Proposed Reconfiguration of Airspace Areas by expanding the Radius by 1 Mile or Less

FAA Region: Alaskan	
Amchitka Island	AK
Cold Bay	AK
Deadhourse	AK
Ketchikan	AK
FAA Region: Central	
Scottsbluff	NE
FAA Region: Eastern	
Danville	VA
FAA Region: Great Lakes	
Hancock, Houghton County Memorial Airport.	MI
Iron Mountain	MI
Marquette	MI
Pellston	MI
Alexandria	MN
Grand Rapids	MN
Hibbing	MN
Dickinson	ND
Huron	SD
Eau Claire	WI
Mosinee	WI
Rhinelander	WI
Wausau	WI
FAA Region: New England	
Houlton	ME
FAA Region: Northwest Mountain	
Hayden	CO
Cutbank	MT
Redmond	OR
Ephrata	WA
Sheridan	WY
FAA Region: Southern	
Miami, Dade-Collier Training and Transition Airport.	FL
Agudilla	PR
Eastover, McEntire Air National Guard Base.	SC
FAA Region: Southwest	
Hot Springs	AR
Carlsbad	NM
Gallup	NM
Clinton	OK
Norman	OK
Victoria	TX
FAA Region: Western-Pacific	
Paso Robles County	CA

Proposed Reconfiguration of Airspace Areas by Expanding the Radius by an Amount Greater Than or Equal to 1.1 Miles and Less Than 2.1 Miles

Name	State
FAA Region: Northwest Mountain	
Oak Harbor	WA
FAA Region: Southern	
London	KY
Proposed Reconfiguration of Airspace Areas by Expanding the Radius by an Amount Greater Than or Equal to 2.1 Miles	
FAA Region: Great Lakes	
Worthington	MN
Brookings	SD
Proposed Reconfiguration of Airspace Areas by Establishing the Following Airspace Areas as Separate Airspace Areas (All Are Included in Existing Control Zones)	
FAA Region: Western-Pacific	
El Centro, Imperial County Airport	CA
Proposed Reconfiguration of Airspaces Areas by Deleting the Following Airports from Existing Control Zones and by Not Including the Following Airports in Proposed Control Zones	
FAA Region: Southern	
Tampa, Peter O. Knoght Airport	FL
Jackson, Bruce Campbell Field	MS

Transition Areas

The FAA proposes to modify the following transition areas contained in § 181 of FAA Order 7400.7 according to the revised criteria addressed in the NPRM. The FAA also proposes to amend the parallel Class E airspace areas that extend upward from other than the surface in FAA Order 7400.9, which becomes effective September 16, 1993.

Name	State
Proposed Reconfiguration of Airspace Areas by Retaining the Current Radius	
FAA Region: Great Lakes	
Thunder Bay	ON
Proposed Reconfiguration of Airspace Areas by Converting the Current Radius to Nautical Miles with No Other Modification	
FAA Region: Alaskan	
Anchorage	AK
FAA Region: Central	
Algona	IA
Clinton	IA
Fort Dodge	IA
Harlan	IA
Maquoketa	IA
Monticello	IA
Newton	IA
Waterloo	IA
Chanute	KS
Coffeyville	KS
Garden City	KS
Goodland	KS
Great Bend	KS
Johnson	KS
Manhattan	KS
McPherson	KS
Phillipsburg	KS
Topeka, Forbes Airfield	KS
Festus	MO
Kennett	MO
Nevada	MO
Springfield	MO
West Plains	MO
Ainsworth	NE
Bassett	NE
Broken Bow	NE
Cambridge	NE
Chappell	NE
Gordon	NE
Hastings	NE
Imperial	NE
Ord	NE
FAA Region: Eastern	
Patuxent River	MD
Andover	NJ
Sussex	NJ
Albany	NY
Elmira	NY
Endicott	NY
Hornell	NY
Hudson	NY
Massena	NY
Monticello	NY
Norwich	NY
Olean	NY
Plattsburgh	NY
Poughkeepsie	NY
Red Hook	NY
Saranac Lake	NY
Sidney	NY
Butler	PA
Farmington	PA
Philadelphia	PA
Punxsutawney	PA
Quakertown	PA
Birch Hollow	VA
Danville	VA
Gordonsville	VA
Fairmont	WV
Ravenwood	WV
Wheeling	WV
FAA Region: Great Lakes	
Belleville	IL
Chicago	IL
Marion	IL
Fort Wayne	IN
Cadillac	MI
Flint	MI
Iron Mountain	MI
Sault Sainte Marie, Chippewa County Airport.	MI
Watersmeet	MI
Mankato	MN
Dickinson	ND
Litchville	ND
New Town	ND
Celina	OH
Dayton	OH
Hillsboro	OH
Peebles	OH
Toledo	OH
Aberdeen	SD
Mitchell	SD
Rapid City	SD
Sioux Falls	SD
Yankton	SD
Baraboo	WI
Milwaukee	WI
Oshkosh	WI
Platteville	WI
Sheboygan	WI
West Bend	WI
FAA Region: New England	
Portsmouth	NH
FAA Region Northwest Mountain	
Akron	CO
Alamosa	CO
Blue Mesa	CO
Burlington	CO
Colorado Springs	CO
Cortez	CO
Durango	CO
Erie	CO
Fort Collins	CO
Fort Morgan	CO
Grand Junction	CO
Greeley	CO
Hugo	CO
Kremmling	CO
Lamar	CO
Montrose	CO
Sterling	CO
Telluride	CO
Trinidad	CO
Burley	ID
Dubois	ID
Gooding	ID
Hailey	ID
Jerome	ID
Lewiston	ID
Malad City	ID
McCall	ID
Mullan Pass	ID
Pocatello	ID
Rexburg	ID
Twin Falls	ID
Billings	MT
Bozeman	MT
Butte	MT
Chouteau	MT
Conrad	MT
Coppertown	MT
Cut Bank	MT
Dillion	MT
Forsyth	MT
Glasgow	MT
Glendive	MT
Great Falls	MT
Havre	MT
Helena	MT
Kalispell	MT
Lewistown	MT
Livingston	MT
Miles City	MT
Missoula	MT
Shelby	MT
West Yellowstone	MT
Wolf Point	MT
Astoria	OR
Baker	OR
Bend	OR
Burns	OR
Eugene	OR
Klamath Falls	OR
La Grande	OR
Medford	OR
North Bend	OR
Redmond	OR
Roseburg	OR
The Dalles	OR
Tillamook	OR
Blanding	UT
Bonneville	UT
Brigham City	UT
Bryce Canyon	UT
Cedar City	UT
Delta	UT
Duchesne	UT
Hanksville	UT
Huntington	UT
Logan	UT
Lucin	UT
Milford	UT
Moab	UT
Price	UT
Roosevelt	UT
Saint George	UT
Salt Lake City	UT
Tooele	UT
Vernal	UT
Hoquiam	WA
Kelso	WA
Moses Lake	WA
Pasco	WA
Pullman	WA
Quincy	WA
Walla Walla	WA
Wenatchee	WA
Yakima	WA

Name	State
Big Piney	WY
Buffalo	WY
Casper	WY
Cheyenne	WY
Cowley	WY
Douglas	WY
Fort Bridger	WY
Gillette	WY
Jackson	WY
Laramie	WY
Newcastle	WY
Pinedale	WY
Powell	WY
Rawlins	WY
Riverton	WY
Sheridan	WY
Torrington	WY
FAA Region: Southern	
Swainsboro	GA
Toccoa	GA
Covington	KY
Darlington	SC
North	SC
Greeneville	TN
Jasper	TN
Knoxville	TN
Pulaski	TN
FAA Region: Southwest	
Cameron	LA
Intracoastal City	LA
Leeville	LA
Morgan City	LA
Alamogordo	NM
Albuquerque	NM
Crownpoint	NM
Freeport	TX
Port O'Connor	TX
Sabine Pass	TX
FAA Region: Western-Pacific	
Cameron	AZ
Douglas	AZ
Fort Huachua	AZ
Gila Bend	AZ
Globe	AZ
Grand Canyon	AZ
Kingman	AZ
Lake Havasu	AZ
Nogales	AZ
Phoenix	AZ
San Carlos	AZ
San Simon	AZ
Sedona	AZ
Window Rock	AZ
Winslow	AZ
Yuma	AZ
Alturas	CA
Brawley	CA
Edwards Air Force Base	CA
El Rico	CA
Gorman	CA
Grass Valley	CA
Half Moon Bay	CA
Herlong	CA
Klamath	CA
Livermore	CA
Maxwell	CA
Merced	CA
Modesto City	CA
Mojave	CA
Montague	CA
Needles	CA
Palm Springs	CA
Parker	CA
Point Reyes	CA
Red Bluff	CA
San Rafael	CA
Santa Maria	CA
Santa Ynez	CA
Sunol	CA
Thermal	CA
Barking Sands	HI
Kapalua, West Maui Airport	HI
Lanai	HI
Waimea-Kohala	HI
Kwajalein Island	MQ
Midway Island, Midway Naval Air Facility	MQ
Coaldale	NV
Ely	NV
Lovelock	NV
Reno, Cannon International Airport	NV
Tonopah	NV
Winnemucca	NV
Yerington	NV
Proposed Reconfiguration of Airspace Areas by Reducing the Radius by 2.5 Miles or Less	
FAA Region: Alaskan	
Ambler	AK
Amchitka Island	AK
Barrow, Barrow/Wiley Post-Will Rogers Memorial Airport.	AK
Big Delta	AK
Cold Bay	AK
Dillingham	AK
King Salmon	AK
McGrath	AK
Mekoryuk	AK
Saint Paul Island	AK
Umiat	AK
FAA Region: Central	
Audubon County	IA
Burlington	IA
Cedar Rapids	IA
Dubuque	IA
Forest City	IA
Grinnell	IA
Independence	IA
Mason City	IA
Muscatine	IA
Oelwein	IA
Oskaloosa	IA
West Union	IA
Dodge City	KS
Hays	KS
Hutchinson	KS
Independence	KS
Newton	KS
Salina	KS
Wichita, Mid-Continent Airport	KS
Columbia	MO
Dexter	MO
Farmington	MO
Jefferson City	MO
Joplin	MO
Kansas City, Richards-Gebaur Airport	MO
Knob Noster, Whiteman Air Force Base	MO
Perryville	MO
Point Lookout	MO
Saint Joseph	MO
Fremont	NE
Grant	NE
Kearney	NE
Lincoln	NE
McCook	NE
Ogallala	NE
Omaha, Millard Airport	NE
Oshkosh	NE
Scottsbluff	NE
Valentine	NE
FAA Region: Eastern	
Cumberland	MD
Frederick	MD
Gaithersburg	MD
Hagerstown	MD
Leonardtown	MD
Linden	NJ
Buffalo	NY
Calverton	NY
Rochester	NY
Syracuse	NY
Westhampton Beach	NY
White Plains	NY
Altoona	PA
Bloomsburg	PA
Clearfield	PA
Ebensburg	PA
Erie	PA
Meadville	PA
North Philadelphia	PA
Pittsburgh	PA
Pottsville	PA
Saint Marys	PA
Selinsgrove	PA
Somerset	PA
Washington	PA
Chantilly, Washington Dulles International Airport.	VA
Charlottesville	VA
Dahlgren	VA
Dublin	VA
Hot Springs	VA
Luray	VA
Lynchburg	VA
Marion	VA
Martinsville	VA
Pennington Gap	VA
Petersburg	VA
Quantico	VA
Staunton	VA
Upperville	VA
Beckley	WV
Clarksburg	WV
Lewisburg	WV
Moundsville	WV
Parkersburg	WV
FAA Region: Great Lakes	
Mattoon	IL
Moline	IL
Monee	IL
Quincy	IL
Rockford	IL
Springfield	IL
Anderson	IN
Evansville	IN
Indianapolis, Brookside Airport	IN
Kokomo	IN
Michigan City	IN
Muncie	IN
Big Rapids	MI
Fremont	MI
Gaylord	MI
Grand Rapids	MI
Grayling	MI
Hancock, Houghton County Memorial Airport.	MI
Houghton Lake	MI
K.I. Sawyer Air Force Base	MI
Lansing	MI
Manistee	MI
Muskegon	MI
Saginaw, Tri-City Airport	MI
Traverse City	MI
Albert Lea	MN
Alexandria	MN
Austin	MN
Duluth, Duluth International Airport	MN
Grand Marais	MN
Grand Rapids	MN
Madison	MN
Worthington	MN
Grand Forks	ND
Jamestown	ND
Minot	ND
Rugby	ND
Wahpeton	ND
Williston	ND
Akron	OH
Ashtabula	OH
Athens-Albany, Ohio University Airport	OH
Carrollton	OH
Circleville	OH
Cleveland	OH
Columbus	OH
Gallipolis	OH
Mansfield	OH
New Lexington	OH

Name	State
New Philadelphia	OH
Newark	OH
Wilmington	OH
Youngstown Municipal	OH
Brookings	SD
Pierre	SD
Boscobel	WI
Cable	WI
Camp Douglas	WI
Clintonville	WI
Kenosha	WI
Lake Geneva	WI
Lone Rock	WI
Manitowoc	WI
Marshfield	WI
Mosinee	WI
Oconto	WI
Prairie DuChien	WI
Pulaski	WI
Rhinelander	WI
Watertown	WI
Wausau	WI
FAA Region: New England	
Danbury	CT
Hartford	CT
Willimantic	CT
Windsor Locks, Bradley International Airport.	CT
Westfield	MA
Biddeford	ME
Greenville	ME
Presque Isle	ME
Rockland	ME
Block Island	RI
Providence	RI
Montpelier	VT
FAA Region: Southern	
Cullman	AL
Dothan	AL
Fayette	AL
Gadsden	AL
Hamilton	AL
Montgomery	AL
Selma	AL
Cross City	FL
Deland	FL
Eglin Air Force Base	FL
Fort Myers	FL
Gainesville	FL
Key West	FL
Lake City	FL
Lakeland	FL
Marianna	FL
Melboure	FL
Miami, Dade-Collier Training and Transition Airport.	FL
Miami, Miami International Airport	FL
Ocala	FL
Orlando, Orlando Executive Airport	FL
Panama City	FL
Tampa	FL
Titusville	FL
Vero Beach	FL
West Palm Beach	FL
Williston	FL
Albany	GA
Atlanta, Hartsfield International Airport	GA
Augusta	GA
Bainbridge	GA
Brunswick	GA
Cedartown	GA
Cordele	GA
Dalton	GA
Gainesville	GA
Jefferson	GA
Macon	GA
Milledgeville	GA
Moultrie	GA
Sandersville	GA
Tifton	GA
Valdosta	GA
Vidalia	GA
Washington	GA
Waycross	GA
Winder	GA
Ashland	KY
Fort Campbell	KY
Glasgow	KY
Hopkinsville	KY
Lexington	KY
London	KY
Monticello	KY
Owensboro	KY
Paducah, Barkley Regional Airport	KY
Sturgis	KY
Bay Saint Louis	MS
Greenville	MS
Greenwood	MS
Gulfport	MS
Jackson	MS
Meridian	MS
Vicksburg	MS
Elizabeth City	NC
Erwin	NC
Goldsboro	NC
Greensboro	NC
Greenville	NC
Hickory	NC
Jacksonville	NC
Kinston	NC
Lumberton	NC
Maxton, Laurinburg-Maxton Airport	NC
Mount Airy	NC
Oak Grove	NC
Raeford	NC
Rocky Mount	NC
Salisbury	NC
Southern Pines	NC
Washington	NC
West Jefferson	NC
Wilkesboro	NC
Wilmington	NC
Winston-Salem	NC
Aguadilla	PR
San Juan	PR
Aiken	SC
Anderson	SC
Beaufort	SC
Florence	SC
Greenville	SC
Greenwood	SC
Hilton Head Island	SC
Clifton	TN
Dayton	TN
Jackson	TN
Lexington	TN
McMinnville	TN
Morriston	TN
Parsons	TN
Rockwood	TN
Sparta	TN
Springfield	TN
Tullahoma	TN
Christiansted-St. Croix	VI
FAA Region: Southwest	
El Dorado	AR
Hot Springs	AR
Magnolia	AR
Morrilton	AR
Ozark	AR
Searcy	AR
Texarkana	AR
Walnut Ridge	AR
Mansfield	LA
Minden	LA
Monroe	LA
Springhill	LA
Artesia	NM
Carlsbad	NM
Deming	NM
Gallup	NM
Hobbs	NM
Las Cruces	NM
Las Vegas	NM
Ruidoso	NM
Santa Fe	NM
Silver City	NM
Socorro	NM
Truth or Consequences	NM
Tucumcari	NM
Ardmore	OK
Buffalo	OK
Duncan	OK
Burant	OK
Elk City	OK
Guymon	OK
McAlester	OK
Poteau	OK
Shawnee	OK
Stillwater	OK
Tahlequah	OK
Berclair	TX
Big Spring	TX
Brownwood	TX
Dalhart	TX
Del Rio	TX
Haskell	TX
Henderson	TX
Hondo	TX
Junction	TX
Kingsville	TX
Lamesa	TX
Monahans	TX
Mount Pleasant	TX
Muleshoe	TX
Palestine	TX
Pecos	TX
Rocksprings, Four Square Ranch Airport	TX
San Marcos	TX
Sweetwater	TX
Van Horn	TX
FAA Region: Western-Pacific	
Casa Grande	AZ
Firebaugh	CA
LeMoore Naval Air Station	CA
Madera	CA
Porterville	CA
Twentynine Palms	CA

Proposed Reconfiguration of Airspace Areas by Reducing the Radius by an Amount Greater Than or Equal to 2.6 Miles and Less Than 5.1 Miles

FAA Region: Alaskan	
Homer	AK
Shemya	AK
FAA Region: Central	
Liberal	KS
Cape Girardeau	MO
Kansas City, Kansas City International Airport.	MO
Saint Louis	MO
Alliance	NE
Grand Island	NE
North Platte	NE
Omaha, Eppley Field	NE
Sidney	NE
FAA Region: Eastern	
Wilmington	DE
Atlantic City, Atlantic City International Airport.	NJ
Bradford	PA
Du Bois	PA
East Stroudsburg	PA
Reading	PA
State College	PA
Wilkes-Barre	PA
Galax	VA
Wise	VA
Bluefield	WV
Huntington	WV
Martinsburg	WV
Morgantown	WV
FAA Region: Great Lakes	
Battle Creek, W.K. Kellogg Airport	MI
Ironwood	MI
Jackson	MI

Name	State
Kalamazoo/Battle Creek International Airport.	MI
Pellston	MI
Hibbing	MN
Minneapolis	MN
Winona	MN
Madison	WI
Sparta, Fort McCoy Airport	WI
FAA Region: New England	
Bridgeport	CT
Chicopee Falls	MA
Bar Harbor	ME
Houlton	ME
Lebanon	NH
FAA Region: Southern	
Birmingham	AL
Huntsville	AL
Muscle Shoals	AL
Tuscaloosa	AL
Bowling Green	KY
Ponce	PR
Chattanooga	TN
Memphis Naval Air Station	TN
Nashville	TN
Tri-City	TN
Charlotte-Amalie-St. Thomas	VI
FAA Region: Southwest	
Jonesboro	AR
Farmington	NM
Dallas-Fort Worth	TX
Yoakum	TX
FAA Region: Western-Pacific	
Prescott	AZ
Hilo, Hilo International Airport, General Lyman Field.	HI
Proposed Reconfiguration of Airspace Areas by Reducing the Radius by an Amount Greater Than or Equal to 5.1 miles	
FAA Region: Alaskan	
Adak	AK
Aniak	AK
Galena	AK
Kenai	AK
Kotzebue	AK
Nome	AK
Port Heiden	AK
Yakutat	AK
FAA Region: Central	
Des Moines	IA
Sioux City	IA
Chadron	NE
Norfolk	NE
FAA Region: Eastern	
Allentown	PA
Bedford	PA
Harrisburg	PA
Johnstown	PA
Reedsville	PA
Roanoke	VA
Berkeley Springs	WV
Charleston	WV
FAA Region: Great Lakes	
Alpena	MI
Rochester	MN
Bismarck	ND
Fargo	ND
Watertown	SD
Eau Claire	WI
LaCrosse	WI
FAA Region: New England	
Whitefield	NH
Burlington	VT
FAA Region: Southern	
Anniston	AL
Jasper	GA
Columbus	MS
FAA Region: Southwest	
Batesville	AR
Waco	TX
FAA Region: Western-Pacific	
Sacramento	CA

Name	State
Proposed Reconfiguration of Airspace Areas by Expanding the Radius by 2.5 Miles or Less	
FAA Region: Alaskan	
Big Lake	AK
Fort Yukon	AK
Iliama	AK
Nenana	AK
Savoonga	AK
Tanana	AK
Unalaska	AK
Valdez	AK
FAA Region: Central	
Albia	IA
Ames	IA
Atlantic	IA
Bloomfield	IA
Boone	IA
Carroll	IA
Centerville	IA
Chariton	IA
Charles City	IA
Cherokee	IA
Clarinda	IA
Clarion	IA
Corning	IA
Cresco	IA
Creston	IA
Decorah	IA
Denison	IA
Eagle Grove	IA
Emmetsburg	IA
Estherville	IA
Fairfield	IA
Fort Madison	IA
Greenfield	IA
Hampton	IA
Iowa City	IA
Iowa Falls	IA
Jefferson	IA
Keokuk	IA
Knoxville	IA
Le Mars	IA
Mapleton	IA
Marshalltown	IA
Milford	IA
Mount Pleasant	IA
Orange City	IA
Osceola	IA
Ottumwa	IA
Pella	IA
Perry	IA
Pocahontas	IA
Red Oak	IA
Rock Rapids	IA
Sac City	IA
Sheldon	IA
Shenandoah	IA
Sibley	IA
Sioux Center	IA
Spencer	IA
Storm Lake	IA
Tipton	IA
Vinton	IA
Washington	IA
Waverly	IA
Webster City	IA
Winterset	IA
Abilene	KS
Anthony	KS
Atchison	KS
Atwood	KS
Belleville	KS
Beloit	KS
Benton	KS
Clay Center	KS
Colby	KS
Concordia	KS
El Dorado	KS
Elkhart	KS
Emporia	KS
Eureka	KS
Fort Scott	KS

Name	State
Harper	KS
Herington	KS
Hugoton	KS
Iola	KS
Kingman	KS
Larned	KS
Lawrence	KS
Lyons	KS
Marysville	KS
Meade	KS
Minneapolis	KS
Neodesha	KS
Norton	KS
Oakley	KS
Oberlin	KS
Ottawa	KS
Parsons	KS
Pittsburgh	KS
Pratt	KS
Russell	KS
Saint Francis	KS
Smith Center	KS
Ulysses	KS
Washington	KS
Wellington	KS
Winfield/Arkansas City	KS
Aurora	MO
Ava	MO
Bowling Green	MO
Brookfield	MO
Butler	MO
Cabool	MO
Cameron	MO
Cassville	MO
Charleston	MO
Chillicothe	MO
Clinton	MO
Cuba	MO
Excelsior Springs	MO
Fort Leonard Wood	MO
Fredericktown	MO
Fulton	MO
Gideon	MO
Grain Valley	MO
Hannibal	MO
Higginsville	MO
Kaiser	MO
Kirksville	MO
Lake Winnebago	MO
Lamar	MO
Lebanon	MO
Lee's Summit	MO
Lexington	MO
Macon-Fower	MO
Maiden	MO
Marshall	MO
Maryville	MO
Mexico	MO
Moberly	MO
Monett	MO
Monroe City	MO
Mountain Grove	MO
Mountain View	MO
Neosho	MO
New Madrid	MO
Ozark	MO
Poplar Bluff	MO
Rolla, Downtown Airport	MO
Rolla/Vichy, Rolla National Airport	MO
Sedalia	MO
Sikeston	MO
Stockton	MO
Trenton	MO
Warrensburg	MO
Washington	MO
Wentzville	MO
Albion	NE
Aurora	NE
Beatrice	NE
Burwell	NE
Columbus	NE
Cozad	NE

Name	State
Crete	NE
Fairbury	NE
Fairmont	NE
Falls City	NE
Gothenburg	NE
Hebron	NE
Holdrege	NE
Kimball	NE
Lexington	NE
Minden	NE
O'Neill	NE
Plattsmouth	NE
Seward	NE
Superior	NE
Tekamah	NE
Thedford	NE
Wahoo	NE
Wayne	NE
York	NE
FAA Region: Eastern	
Georgetown	DE
Laurel	MD
Aberdeen	MD
Cambridge	MD
College Park	MD
Easton	MD
Edgewood	MD
Oakland	MD
Ocean City	MD
Salisbury	MD
Westminster, Carroll County Airport	MD
Westminster, Clearview Airpark	MD
Berlin	NJ
Blairstown	NJ
Cross Keys	NJ
Hammonton	NJ
Manahawkin	NJ
Matawan	NJ
Ocean City	NJ
Old Bridge	NJ
Pittstown	NJ
Princeton	NJ
Readington	NJ
Vincetown	NJ
West Milford	NJ
Wildwood	NJ
Woodbine	NJ
Wrightstown	NJ
Batavia	NY
Binghampton	NY
Brockport	NY
Dunkirk	NY
Durhamville	NY
East Hampton	NY
Fort Drum	NY
Fulton	NY
Glens Falls	NY
Hamilton	NY
Islip	NY
Ithaca	NY
Jamestown	NY
LeRoy	NY
Malone	NY
Ogdensburg	NY
Oneonta	NY
Palmyra	NY
Penn Yan	NY
Potsdam	NY
Romulus	NY
Shirley	NY
Skaneateles	NY
Watertown	NY
Wellsville	NY
Williamson	NY
Wurtsboro	NY
Annville	PA
Beaver Falls	PA
Chambersburg	PA
Clarion	PA
Connellsville	PA
Corry	PA
Danville	PA
Downington	PA
Doylestown	PA
Easton	PA
Factoryville	PA
Fort Indiantown Gap	PA
Franklin	PA
Galeton	PA
Greenville	PA
Grove City	PA
Honesdale	PA
Indiana	PA
Latrobe	PA
Marietta	PA
Monongahela	PA
Mount Pocono	PA
New Castle	PA
Perkasie	PA
Philipsburg	PA
Pottstown	PA
Seven Springs	PA
Shamokin	PA
Titusville	PA
Toughkenamon	PA
Wellsboro	PA
York	PA
Ashland	VA
Blacksburg	VA
Blackstone	VA
Bookneal	VA
Chase City	VA
Chesapeake	VA
Chesterfield	VA
Chincoteague	VA
Culpepper	VA
Emporia	VA
Farmville	VA
Franklin	VA
Fredericksburg	VA
Louisa	VA
Melfa	VA
Midland	VA
Moneta	VA
Orange	VA
Portsmouth	VA
Quinton	VA
Richmond	VA
South Boston	VA
South Hill	VA
Suffolk	VA
Tangier	VA
Wakefield	VA
West Point	VA
Williamsburg	VA
Winchester	VA
Elkins	WV
Milton	WV
Petersburg	WV
Point Pleasant	WV
Summersville	WV
FAA Region: Great Lakes	
Belvidere	IL
Bloomington	IL
Cahokia, Saint Louis Downtown Parks Airport.	IL
Cairo	IL
Carmi	IL
Centralia	IL
Champaign-Urbana	IL
Danville	IL
Decatur	IL
Dixon	IL
Effingham	IL
Freeport	IL
Galesburg	IL
Gibson City	IL
Greenville	IL
Harrisburg	IL
Kankakee	IL
Lacon	IL
Macomb	IL
Monticello	IL
Mount Vernon	IL
Paris	IL
Paxton	IL
Peru	IL
Pickneyville	IL
Pittsfield	IL
Pontiac	IL
Robinson	IL
Rochelle	IL
Saint Jacob	IL
Salem	IL
Shelbyville	IL
Sterling	IL
Vandalia	IL
Alexandria	IN
Angola	IN
Auburn	IN
Bloomington	IN
Connersville	IN
Elkhart	IN
French Lick	IN
Goshen	IN
Greencastle	IN
Greensburg	IN
Greenwood	IN
Huntingburg	IN
Indianapolis, Terry Airport	IN
Jeffersonville	IN
Kendallville	IN
Kentland	IN
Knox	IN
Lafayette, Aretz Airport	IN
Lafayette, Purdue University Airport	IN
Lowell	IN
Madison	IN
Monticello	IN
Mount Comfort	IN
Nappanee	IN
New Castle	IN
Plymouth	IN
Portland	IN
Richmond	IN
Seymour	IN
Shelbyville	IN
Sheridan	IN
South Bend	IN
Tell City	IN
Terre Haute	IN
Valparaiso	IN
Vincennes	IN
Warsaw	IN
Washington	IN
Adrian	MI
Allegan	MI
Alma	MI
Baldwin	MI
Bellaire	MI
Benton Harbor	MI
Boyne Falls	MI
Caro	MI
Charlevoix	MI
Charlotte	MI
Clare	MI
Coldwater	MI
Dowagiac	MI
East Tawas	MI
Eaton Rapids	MI
Escanaba	MI
Frankfort	MI
Gladwin	MI
Grand Ledge	MI
Greenville	MI
Hastings	MI
Hillsdale	MI
Holland	MI
Howell	MI
Ionia	MI
Lapeer	MI
Mackinac Island	MI
Marlette	MI
Marquette	MI
Marshall	MI
Mason	MI

Name	State
Menominee	MI
Monroe	MI
Newberry	MI
Ontonagon	MI
Oscada	MI
Saginaw, Harry W. Brown Airport	MI
Sault Saint Marie, Sanderson Field	MI
South Haven	MI
Sparta	MI
Standish	MI
Sturgis	MI
Tecumseh	MI
West Branch	MI
Aitkin	MN
Baudette	MN
Bemidji	MN
Blue Earth	MN
Brainerd	MN
Buffalo	MN
Caledonia	MN
Camp Ripley	MN
Cloquet	MN
Crookston	MN
Dodge Center	MN
Ely	MN
Fairmont	MN
Faribault	MN
Fergus Falls	MN
Glenwood	MN
Hallock	MN
Hawley	MN
Hutchinson	MN
Litchfield	MN
Little Falls	MN
Maple Lake	MN
Marshall	MN
Mora	MN
Morris	MN
Motley	MN
Olivia	MN
Orr	MN
Ortonville	MN
Owatonna	MN
Park Rapids	MN
Ramsey, Gateway North Industrial Airpark.	MN
Red Wing	MN
Redwood Falls	MN
Rushford	MN
Saint Cloud	MN
Springfield	MN
Two Harbors	MN
Warroad	MN
Waseca	MN
Wheaton	MN
Willmar	MN
Windom	MN
Bowman	ND
Casselton	ND
Mohall	ND
Pembina	ND
Valley City	ND
Alliance	OH
Ashland	OH
Barnesville	OH
Beach City	OH
Bellefontaine	OH
Bryan	OH
Bucyrus	OH
Cadiz	OH
Caldwell	OH
Cambridge	OH
Coshocton	OH
Dayton, General Airport South	OH
Dayton, Green County Airport	OH
Defiance	OH
Delaware	OH
East Liverpool	OH
Elyria	OH
Findlay	OH
Fostoria	OH
Fremont	OH
Georgetown	OH
Hamilton	OH
Harrison	OH
Jackson	OH
Kenton	OH
Lebanon	OH
Lima	OH
London	OH
Marion	OH
Marysville	OH
Middlefield	OH
Middletown	OH
Millersburg	OH
Mount Gilead	OH
Mount Vernon	OH
Napoleon	OH
Norwalk	OH
Oxford	OH
Phillipsburg	OH
Piqua	OH
Port Clinton	OH
Portsmouth	OH
Saint Clairsville	OH
Salem	OH
Sandusky	OH
Sidney	OH
Tiffin	OH
Upper Sandusky	OH
Urbana	OH
Versailles	OH
Wadsworth	OH
Wapakoneta	OH
Washington Court House	OH
West Union	OH
Woodsfield	OH
Wooster	OH
Youngstown, Elser Metro Airport	OH
Zanesville	OH
Britton	SD
Huron	SD
Madison	SD
Philip	SD
Spearfish	SD
Winner	SD
Amery	WI
Antigo	WI
Ashland	WI
Black River Falls	WI
Burlington	WI
Chetek	WI
Cumberland	WI
DeLavan	WI
Eagle River	WI
Grantsburg	WI
Green Bay	WI
Hartford	WI
Hayward	WI
Janesville	WI
Juneau	WI
Ladysmith	WI
Medford	WI
Merrill	WI
Minocqua-Woodruff, Noble F. Lee Memorial Airport.	WI
Monroe	WI
Neillsville	WI
New Holstein	WI
New Richmond	WI
Osceola	WI
Phillips	WI
Rice Lake	WI
Shell Lake	WI
Siren	WI
Solon Springs	WI
Stevens Point	WI
Sturgeon Bay	WI
Superior	WI
Waupaca	WI
Wisconsin Rapids	WI
FAA Region: New England	
Bozrak	CT
Chester	CT
Danielson	CT
Madison	CT
Meriden	CT
Oxford	CT
Hopedale	MA
Mansfield	MA
Marshfield	MA
Nantucket	MA
Newburyport	MA
Palmer	MA
Pittsfield	MA
Plymouth	MA
Provincetown	MA
Southbridge	MA
Taunton	MA
Worcester	MA
Auburn	ME
Belfast	ME
Frenchville	ME
Fryeburg	ME
Lincoln	ME
Machias	ME
Millinocket	ME
Pittsfield	ME
Portland	ME
Princeton	ME
Rangeley	ME
Sanford	ME
Berlin	NH
Claremont	NH
Pawtucket	RI
Bennington	VT
Lydonville	VT
Morrisville	VT
Rutland	VT
Springfield	VT
FAA Region: Southern	
Alabaster	AL
Albertville	AL
Auburn	AL
Bay Minette	AL
Brewton	AL
Butler	AL
Centre	AL
Clanton	AL
Clayton	AL
Demopolis	AL
Eufaula	AL
Evergreen	AL
Foley	AL
Fort Payne	AL
Greensboro	AL
Greenville	AL
Gulf Shores	AL
Haleyville	AL
Huntsboro	AL
Jasper	AL
Lanett	AL
Mobile	AL
Sylacauga	AL
Troy	AL
Tuskegee	AL
Vernon	AL
Bonifay	FL
Brooksville	FL
Bunnell	FL
Choctaw Outlying Field	FL
Crestview	FL
Fernandina Beach	FL
Immokalee	FL
Jupiter	FL
Keystone Heights	FL
Lake Wales	FL
Leesburg	FL
Marathon	FL
Marco Island	FL
Naples	FL
New Port Richey	FL
New Smyrna Beach	FL
Palatka	FL
Perry	FL
Punta Gorda	FL

Name	State
Saint Augustine	FL
Sanford	FL
Sebring	FL
Tallahassee	FL
Venice	FL
Zephyrhills	FL
Alma	GA
Americus	GA
Athens	GA
Baxley	GA
Cairo	GA
Camilla	GA
Carrollton	GA
Cartersville	GA
Cedar Springs	GA
Cochran	GA
Columbus	GA
Covington	GA
Donalsonville	GA
Douglas	GA
Dublin	GA
Eastman	GA
Elberton	GA
Fitzgerald	GA
Fort Stewart	GA
Greensboro	GA
Griffin	GA
Hazlehurst	GA
Hinesville	GA
Homerville	GA
Jesup	GA
La Grange	GA
Lawrenceville	GA
Madison	GA
McRae	GA
Metter	GA
Monroe	GA
Montezuma	GA
Nashville	GA
Newnan	GA
Pine Mountain	GA
Plains	GA
Rome	GA
Saint Mary's	GA
Savannah	GA
Statesboro	GA
Sylvania	GA
Thomaston	GA
Bardstown	KY
Campbellsville	KY
Danville	KY
Elizabethtown	KY
Falmouth	KY
Flemingsburg	KY
Frankfort	KY
Greenville	KY
Hawesville	KY
Henderson	KY
Jackson	KY
Louisville	KY
Madisonville	KY
Mayfield	KY
Mount Sterling	KY
Murray	KY
Paducah, Farrington Airport	KY
Richmond	KY
Russellville	KY
Somerset	KY
Springfield	KY
Booneville	MS
Clarksdale	MS
Cleveland	MS
Columbia	MS
Corinth	MS
Drew	MS
Fulton	MS
Grenada	MS
Hattiesburg	MS
Holly Springs	MS
Indianola	MS
Kosciusko	MS
Laurel	MS
Lexington	MS
Louisville	MS
Marks	MS
McComb	MS
Natchez	MS
Okolona	MS
Oxford	MS
Pascagoula	MS
Philadelphia	MS
Picayune	MS
Prentiss	MS
Ripley	MS
Starkville	MS
Tupelo	MS
Yazoo City	MS
Ahoskie	NC
Albemarle	NC
Asheboro	NC
Beaufort	NC
Burlington	NC
Cherry Point Marine Corps Air Station	NC
Clinton	NC
Edenton	NC
Elkin	NC
Fayetteville	NC
Hatteras	NC
Kenansville	NC
Lexington	NC
Liberty	NC
Lincolnton	NC
MacKall Army Air Field	NC
Manteo	NC
Mocksville	NC
Monroe	NC
Morganton	NC
New Bern	NC
Oxford	NC
Plymouth	NC
Raleigh	NC
Reidsville	NC
Roanoke Rapids	NC
Rockingham	NC
Roxboro	NC
Sanford	NC
Shelby	NC
Silver City	NC
Smithfield	NC
Statesville	NC
Taboro	NC
Wadesboro	NC
Walnut Cove	NC
Waxhaw	NC
Whiteville	NC
Williamston	NC
Wilson	NC
Allendale	SC
Barnwell	SC
Bennettsville	SC
Camden	SC
Charleston	SC
Cheraw	SC
Chester	SC
Clemson	SC
Columbia	SC
Conway	SC
Dillon	SC
Georgetown	SC
Hartsville	SC
Hemingway	SC
Kingstree	SC
Lake City	SC
Lancaster	SC
Laurens	SC
Loris	SC
Manning	SC
Marion	SC
Moncks Corner	SC
Myrtle Beach	SC
Newberry	SC
Orangeburg	SC
Saint George	SC
Spartanburg	SC
Sumter	SC
Walterboro	SC
Athens	TN
Bolivar	TN
Camden	TN
Centerville	TN
Cookeville	TN
Covington	TN
Crossville	TN
Dickson	TN
Dyersburg	TN
Fayetteville	TN
Humbolt	TN
Huntingdon	TN
Jacksboro	TN
Jamestown	TN
Lafayette	TN
Lawrenceburg	TN
Memphis	TN
Mount Pleasant	TN
Oneida	TN
Paris	TN
Portland	TN
Savannah	TN
Selmer	TN
Shelbyville	TN
Union City	TN
Waverly	TN
FAA Region: Southwest	
Arkadelphia	AR
Blytheville	AR
Brinkley	AR
Camden	AR
Carlisle	AR
Cherokee Village	AR
Clarksville	AR
Corning	AR
Crossett	AR
DeQueen	AR
Dumas	AR
Flippin	AR
Forrest City	AR
Fort Smith	AR
Harrison	AR
Heber Springs	AR
Hope	AR
Lake Village	AR
Malvern	AR
McGehee	AR
Monticello	AR
Mountain View	AR
Newport	AR
Pine Bluff	AR
Warren	AR
Bastrop	LA
Bogalusa	LA
Bunkie	LA
Covington	LA
De Quincy	LA
De Ridder	LA
Eunice	LA
Grande Isle	LA
Hammond	LA
Homer	LA
Houma	LA
Jennings	LA
Jonesboro	LA
Lafayette	LA
Lake Providence	LA
Many	LA
Marksville	LA
Natchitoches	LA
Opelousas	LA
Patterson	LA
Port Sulphur	LA
Ruston	LA
Slidell	LA
Thibodaux	LA
Venice	LA
Vivian	LA
Welsh	LA
Winnfield	LA

Name	State
Belen	NM
Lovington	NM
Raton	NM
Taos	NM
Zuni	NM
Ada	OK
Alva	OK
Antlers	OK
Boise City	OK
Bristow	OK
Burns Flat	OK
Chickasha	OK
Clinton	OK
Fairview	OK
Gage	OK
Grove	OK
Guthrie	OK
Hobart	OK
Holdenville	OK
Idabel	OK
Lawton	OK
Madill	OK
Medford	OK
Miami	OK
Mooreland	OK
Muskogee	OK
Okmulgee	OK
Pauls Valley	OK
Perry	OK
Ponca City	OK
Tulsa	OK
Watonga	OK
Weatherford	OK
Woodward	OK
Alice	TX
Alpine	TX
Anahuac	TX
Andrews	TX
Athens	TX
Atlanta	TX
Ballinger	TX
Beaumont	TX
Big Lake	TX
Big Sandy	TX
Bonham	TX
Bowie	TX
Brady	TX
Breckenridge	TX
Brenham	TX
Brownfield	TX
Brownsville	TX
Burnet	TX
Caldwell	TX
Canadian	TX
Carrizo Springs	TX
Carthage	TX
Center	TX
Childress	TX
Clarendon	TX
Cleveland	TX
Coleman	TX
Commerce	TX
Corpus Christi	TX
Corsicana	TX
Cotulla	TX
Crosbyton	TX
Devine	TX
Dumas	TX
Eagle Lake	TX
Eastland	TX
El Campo	TX
El Paso	TX
Ennis	TX
Evadale	TX
Falfurrias	TX
Follett	TX
Fort Stockton	TX
Franklin	TX
Fredericksburg	TX
Gainesville	TX
George West	TX
Georgetown	TX
Giddings	TX
Graham	TX
Greenville	TX
Gruver, Cluck Ranch Airport	TX
Gruver, Municipal Airport	TX
Guthrie	TX
Harlingen	TX
Hebbronville	TX
Hereford	TX
Higgins	TX
Huntsville	TX
Jacksonville	TX
Jasper	TX
Johnson City	TX
Kenedy	TX
Kerrville	TX
Killeen	TX
Kountze-Silsbee	TX
La Pryor	TX
Lake Jackson	TX
Lampasas	TX
Laredo	TX
Levelland	TX
Littlefield	TX
Llano	TX
Lone Star	TX
Longview	TX
Lufkin	TX
Madisonville	TX
Marble Falls	TX
Marfa	TX
Marshall	TX
Mason	TX
McAllen	TX
Mexia	TX
Midland	TX
Mineola	TX
Mineral Wells	TX
Mount Pleasant	TX
Nacogdoches	TX
Navasota	TX
Newgulf	TX
Oakwood	TX
Olney	TX
Paducah	TX
Pampa	TX
Paris	TX
Pearsall	TX
Perryton	TX
Plainview	TX
Pleasanton	TX
Refugio	TX
Rocksprings, Edwards County Airport	TX
Rosanky	TX
San Angelo	TX
Santa Elena	TX
Seminole	TX
Sherman	TX
Snyder	TX
Spearman	TX
Spofford	TX
Stamford	TX
Stephenville	TX
Stratford	TX
Sulphur Springs	TX
Taylor	TX
Temple	TX
Uvalde	TX
Vernon	TX
Victoria	TX
Waller	TX
Waring	TX
Wharton	TX
Wheeler	TX
Wichita Falls	TX
Wink	TX
Winters	TX
FAA Region: Western-Pacific	
Show Low	AZ
Columbia	CA
Davis	CA
Fresno	CA
Ramona	CA
Visalia	CA
Fallon Naval Air Facility	NV
Indian Springs	NV

Proposed Reconfiguration of Airspace Areas by Expanding the Radius by an Amount Greater Than or Equal to 2.6 Miles and Less Than 5.1 Miles

FAA Region: Eastern	
Coatesville	PA
Pineville	WV
FAA Region: Great Lakes	
Casey	IL
Dwight	IL
Fairfield	IL
Flora	IL
Jacksonville	IL
Kewanee	IL
Lincoln	IL
Litchfield	IL
Olney	IL
Sparta	IL
Taylorville	IL
Bedford	IN
Crawfordsville	IN
Frankfort	IN
Huntington	IN
La Porte	IN
Marion	IN
North Vernon	IN
Rensselaer	IN
Rochester	IN
Sullivan	IN
Wabash	IN
Winamac	IN
Winchester	IN
Bad Axe	MI
Drummond Island	MI
Ludington	MI
Manistique	MI
Mount Pleasant	MI
Rogers City	MI
Benson	MN
Cambridge	MN
Detroit Lakes	MN
Fosston	MN
International Falls	MN
Jackson	MN
Montevideo	MN
New Ulm	MN
Pipestone	MN
Roseau	MN
Staples	MN
Thief River Falls	MN
Devils Lake	ND
Ottawa	OH
Van Wert	OH
Miller	SD
Mobridge	SD
Vermillion	SD
Land O'Lakes	WI
Mineral Point	WI
FAA Region: New England	
Great Barrington	MA
Highgate	VT
Newport	VT
FAA Region: Northwest Mountain	
Eagle	CO
FAA Region: Southern	
Alexander City	AL
Monroeville	AL
Daytona Beach	FL
Jacksonville	FL
Milton Naval Air Station Whiting Field, North and South.	FL
Pahokee	FL
Pensacola	FL
Sarasota	FL
Claxton	GA
Brookhaven	MS
Ocracoke	NC
Rutherfordton	NC

Name	State
Southport	NC
Wallace	NC
Roosevelt Roads	PR
Pageland	SC
Winnsboro	SC
Livingston	TN
Trenton	TN
FAA Region: Southwest	
Mena	AR
West Helena	AR
Fort Polk	LA
Roswell	NM
Henryetta	OK
Bay City	TX
Beeville	TX
College Station	TX
Edna	TX
Liberty	TX
Port Isabel	TX
Port Lavace	TX
Rockport	TX
Sonora	TX
FAA Region: Western-Pacific	
Los Banos	CA
Oakdale	CA
Orland	CA
Proposed Reconfiguration of Airspace Areas by Expanding the Radius by an Amount Greater Than or Equal to 5.1 Miles	
FAA Region: Western-Pacific	
Victorville, George Air Force Base	CA
Proposed Reconfiguration of Airspace Areas by Establishing a Radius of the Airport From a Portion of the Existing Airspace Area	
FAA Region: Alaskan	
Bethel	AK
Cordova, Smith Airport	AK
Deadhorse	AK
Emmonak	AK
Gambell	AK
Gulkane	AK
Gustavus	AK
Hooper Bay	AK
Kipnuk	AK
Kodiak	AK
Middleton Island	AK
Northway	AK
Petersburg	AK
Point Hope	AK
Saint Marys	AK
Sand Point	AK
Shishmaref	AK
Sitka	AK
Talkeetna	AK
Togiak	AK
Unalekleet	AK
Wrangell	AK
FAA Region: Eastern	
Millville	NJ
Albion	NY
Norfolk	VA
FAA Region: New England	
Gorton	CT
Augusta	ME
Bangor	ME
Concord	NH
FAA Region: Southwest	
Shreveport	LA
Oklahoma City	OK
Palacios	TX
Tyler	TX
FAA Region: Western-Pacific	
Arcata	CA
Bakersfield	CA
China Lake Naval Air Facility	CA
Colusa	CA
El Centro Naval Air Facility	CA
Oceanside	CA
Oxnard	CA
Palmdale	CA
San Jose, San Jose International Airport	CA
San Luis Obispo	CA
Santa Barbara	CA
Santa Catalina	CA
Vandenberg Air Force Base	CA
Willows, Glen County Airport	CA
Proposed Reconfiguration of Airspace Areas by Changing the Shape of the Existing Airspace Area	
FAA Region: Alaskan	
Juneau	AK
Ketchikan	AK
FAA Region: Eastern	
Washington, National Airport and Andrews Air Force Base.	DC
Dover	DE
Baltimore, Baltimore Washington International Airport.	MD
Babylon	NY
Cortland	NY
Dansville	NY
New York Metropolitan	NY
Newburgh	NY
Utica	NY
Lancaster	PA
Leighton	PA
Williamsport	PA
FAA Region: Great Lakes	
Peoria	IL
Indianapolis, Indianapolis International Airport.	IN
Detroit	MI
FAA Region: New England	
Boston	MA
Falmouth	MA
Brunswick	ME
Keene	NH
FAA Region: Northwest Mountain	
Aspen	CO
Denver, Centennial Airport	CO
Denver, Stapleton International Airport	CO
Hayden	CO
Holyoke	CO
La Junta	CO
Meeker	CO
Pueblo	CO
Rifle	CO
Steamboat Springs	CO
Tobe	CO
Boise	ID
Idaho Falls	ID
Mountain Home	ID
Polson	MT
Sidney	MT
Lakeview	OR
Newport	OR
Ontario	OR
Pendleton	OR
Portland	OR
Salem	OR
Ogden	UT
Wendover	UT
Ellensburg	WA
Oak Harbor, Whidbey Island	WA
Omak	WA
Port Angeles	WA
Seattle	WA
Spokane	WA
Cody	WY
Evanston	WY
Rock Springs	WY
Worland	WY
FAA Region: Southern	
Fort Rucker	AL
Asheville	NC
Charlotte	NC
FAA Region: Southwest	
Fayetteville	AR
Little Rock	AR
Russellville	AR
Alexandria	LA
Baton Rouge	LA
Lake Charles, Lake Charles Regional Airport.	LA
New Orleans	LA
Clovis	NM
Bartlesville	OK
Enid	OK
Abilene, Dyess Air Force Base	TX
Amarillo	TX
Austin, Robert Mueller Municipal Airport	TX
Borger	TX
Houston	TX
Lubbock	TX
San Antonio, San Antonio International Airport.	TX
FAA Region: Western-Pacific	
Cochise	AZ
Flagstaff	AZ
Heber	AZ
Page	AZ
Peach Springs	AZ
Portal	AZ
Saint Johns	AZ
Tucson, Tucson International Airport	AZ
Bishop	CA
Blythe	CA
Burbank	CA
Camp Pendleton	CA
Chico	CA
Crescent City	CA
Crows Landing Naval Auxiliary Landing Facility.	CA
Daggett	CA
Delano	CA
Fortuna	CA
Hanford	CA
Lodi	CA
Lompoc, Lompoc Airport	CA
Los Angeles	CA
Marysville	CA
Monterey	CA
Paso Robles County	CA
Redding	CA
Rio Vista	CA
Riverside	CA
Salyer Farms	CA
San Diego	CA
San Francisco	CA
Santa Rosa	CA
Stockton	CA
Tracy	CA
Ukiah	CA
Vacaville	CA
Woodland	CA
Guam Island	CQ
Honolulu, Honolulu International Airport	HI
Honolulu, Wheeler Air Force Base	HI
Kahului	HI
Kailua-Kona	HI
Kaneohe Marine Corp Air Station	HI
Lihue	HI
Molokai	HI
Battle Mountain	NV
Elko	NV
Las Vegas	NV
Mercury	NV
Proposed Reconfiguration of Airspace Areas by Deleting the Following Airspace Areas as Separate Airspace Areas	
FAA Region: Alaskan	
Annette Island	AK
Anvik	AK
Biorka Island	AK
Farewell	AK
Huslia	AK
Johnstone Point	AK
Moses Point	AK
Quinhagak	AK
Selawik	AK
Yakataga	AK

Name	State
FAA Region: Central	
Chesterfield	MO
Creve Coeur	MO
FAA Region: Eastern	
Hershey	PA
Gloucester	VA
FAA Region: Great Lakes	
Lansing	IL
Atterbury	IN
Logansport	IN
Peru	IN
Deckerville	MI
Roscommon	MI
Hettinger	ND
Watford City	ND
Wagner	SD
FAA Region: New England	
Gloucester	MA
Haverhill	MA
Wiscasset	ME
North Conway	NH
Rochester	NH
FAA Region: Southern	
Wetumpka	AL
Aurora	NC
Union	SC
FAA Region: Southwest	
Almyre	AR
Conway	AR
Hampton	AR
Stuttgart	AR
Coushatta	LA
Rayville	LA
Tallulah	LA
Afton	OK
Cushing	OK
Sallisaw	OK
Caddo Mills	TX
Fairfield	TX
Granbury	TX
Hamilton	TX
Jonestown	TX
Katy	TX
New Braunfels	TX
Orange	TX
Presidio	TX
Robstown	TX
Terrell	TX
Faa Region: Western-Pacific	
Fort Jones	CA
Little River	CA
Placerville	CA
Priest	CA
Hawthorne	NV
Wells	NV
Proposed Reconfiguration of Airspace Areas by Establishing the Following Airspace Areas as Separate Airspace Areas (All Are Included in Existing Transition Areas)	
FAA Region: Alaskan	
Bettles	AK
Fairbanks, Eielson Air Force Base	AK
Fairbanks, Fairbanks International Airport.	AK
Fairbanks, Wainwright Army Airfield	AK
Soldotna	AK
FAA Region: Central	
Olathe, Johnson County Industrial Airport.	KS
Glathe, Johnson County Executive Airport.	KS
Topeka, Phillip Billard Airport	KS
Boonville	MO
FAA Region: Eastern	
Manville	NJ
Somerville	NJ
FAA Region: Great Lakes	
Lawrenceville, Vincennes International Airport.	IL
Columbus	IN
Battle Creek, W.K. Kellogg Airport	MI
Cheboygan City, County Airport	MI
Harbor Springs	MI
Kalamozoo/Battle Creek International Airport.	MI
Three Rivers Muncipal-Dr. Haines Airport.	MI
Duluth, Sky Harbor Airport	MN
Eveleth-Virginia Municipal Airport	MN
Mandan	ND
Batavia, Clermont County Airport	OH
Medina	OH
FAA Region: New England	
New Haven	CT
Windsor Locks, Bradley International Airport.	CT
Fall River	MA
Fitchburg	MA
Fort Devens	MA
New Bedford	MA
Northampton	MA
Westfield	MA
Kennebunkport	ME
Norridgewock	ME
Old Town	ME
Waterville	ME
Laconia	NH
Manchester	NH
Nashua	NH
Newport	RI
North Kingstown	RI
Westerly	RI
West Dover	VT
FAA Region: Northwest Mountain	
Greybull	WY
FAA Region: Southern	
Peachtree City	GA
Prestonburg	KY
Bogue	NC
Puerto Rico	PR
Smithville	TN
FAA Region: Southwest	
Paragould	AR
New Roads	LA
Altus	OK
Pryor	OK
Graford	TX
Sinton	TX
Weslaco	TX
Airspace Areas for States That Would Not Be Reconfigured	
FAA Region: Central	
Iowa, Iowa	
Kansas, Kansas	
Missouri, Missouri	
Nebraska, Nebraska	
FAA Region: Eastern	
District of Columbia	
Pennsylvania, Pennsylvania	
West Virginia, West Virginia	
FAA Region: Great Lakes	
Illinois, Illinois	
Indiana, Indiana	
Michigan, Michigan	
Minnesota, Minnesota	
Ohio, Ohio	
Wisconsin, Wisconsin	
FAA Region: New England	
Connecticut, Connecticut	
Rhode Island, Rhode Island	
Vermont, Vermont	
FAA Region: Southern	
Kentucky, Kentucky	
Tennessee, Tennessee	
FAA Region: Southwest	
Arkansas, Arkansas	
New Mexico, New Mexico	
Oklahoma, Oklahoma	
FAA Region: Western-Pacific	
Hawaiian Islands, Hawaii	
Proposed Reconfiguration of Airspace Areas by Revising the Distance from the U.S. Coast from 3 Nautical Miles to 12 Nautical Miles	
FAA Region: Eastern	
Delaware, Delaware	
Maryland, Maryland	
New Jersey, New Jersey	
New York State, New York	
Virginia, Virginia	
FAA Region: New England	
Massachusetts, Massachusetts	
Maine, Maine	
New Hampshire, New Hampshire	
FAA Region: Southern	
Alabama, Alabama	
Florida, Florida	
Georgia, Georgia	
Mississippi, Mississippi	
North Carolina, North Carolina	
South Carolina, South Carolina	
FAA Region: Southwest	
Louisiana, Louisiana	
Texas, Texas	

Class D Airspace Areas

The FAA proposes to amend Subpart D of FAA Order 7400.9, which becomes effective September 16, 1993, by establishing the following Class D airspace areas. These areas are at airports that have an airport traffic area but do not have an associated control zone, as of April 30, 1991. The proposed lateral limits of Class D airspace areas are measured in nautical miles and the proposed vertical limits are designated at less than 2,500 feet above the surface and expressed in MSL.

FAA Region: Western-Pacific
Tucson, Ryan Field, Arizona
Mojave Airport, California
Whiteman, California

The FAA proposes to amend Subpart D of FAA Order 7400.9, which becomes effective September 16, 1993, by replacing the El Toro, California Special Air Traffic Rules Area with a Class D airspace area. This proposal is based on the FAA's amendment in the Airspace Reclassification final rule to remove and reserve Subpart R of Part 93, which describes the El Toro, California Special Air Traffic Rules Area. In the Airspace Reclassification final rule, the FAA stated that the Special Air Traffic Rule Area will become a part of the El Toro Class C airspace area. However the FAA is proposing to replace the Special Air Traffic Rules Area with a Class D airspace area. This would place a less

restrictive burden on persons who operate aircraft in the area and maintain the current two-way radio communication requirement.

TCAs and ARSAs

As a result of this review of airspace areas, the FAA proposes modifications to certain TCAs and ARSAs. These modifications are generally minor in nature and update the airspace descriptions.

The FAA proposes to modify the airspace descriptions of the Anchorage, Alaska and Chicago, Midway Airport, Illinois ARSAs, which are described in § 501 of FAA Order 7400.7 and Subpart C of FAA Order 7400.9.

The FAA proposes to simplify the airspace in the vicinity of Anchorage International Airport, Alaska ARSA by combining: (1) the Anchorage International Airport control zone; (2) Anchorage International Airport ARSA; and (3) the International Segment of the Anchorage Special Air Traffic Rules Area. Under this proposed combination of airspace areas, the basis of the radius for the Anchorage International Airport ARSA would change from the airport's geographic position to the Anchorage Air Traffic Control Tower. This change would require the radius of the Anchorage ARSA to be revised from 5 miles to 5.2 miles, which would establish a congruent boundary for the Anchorage, Alaska ARSA and the International Segment of the Anchorage Air Traffic Rules Area.

The Chicago, Midway Airport, Illinois ARSA would be revised by lowering the vertical limit so that it does not overlap the floor of the Chicago, O'Hare International Airport, Illinois TCA. The existing Midway Airport ARSA description shows a vertical limit of 4,000 feet MSL but excludes the O'Hare International Airport TCA. The O'Hare International Airport TCA, which is above the entire Midway Airport ARSA, has a floor of either 3,000 feet MSL or 3,600 feet MSL in the areas above the Midway Airport ARSA. Therefore, the proposal to lower the vertical limit of Midway Airport ARSA's legal description from 4000 feet to 3,600 feet MSL while continuing to exclude the O'Hare TCA, would correct the current airspace description and would not modify operations under VFR.

The FAA also proposes minor changes in existing descriptions of certain TCAs and ARSAs. These changes would modify the names of certain areas, or revise language used in the legal description, for the purpose of consistency, but would not result in substantive changes in the dimensions of the affected airspace. The proposal also includes a review by the National Ocean Service (NOS) of the geographic positions that appear in the legal descriptions of control areas and transition areas. For the control zones associated with TCAs and ARSAs to be congruent with the surface areas of TCAs and ARSAs, the geographic positions in the legal descriptions of TCAs and ARSAs would also be revised.

The FAA proposes to modify the names of the following ARSAs, which are described in § 501 of FAA Order 7400.7 and Subpart C of FAA Order 7400.9: Atlantic City Airport, New Jersey, renamed Atlantic City International Airport, New Jersey; Rochester-Monroe County Airport, New York, renamed Rochester International Airport, New York; Champaign University of Illinois-Willard Airport, Illinois, renamed Champaign-Urbana, University of Illinois-Willard Airport, Illinois; Greater Peoria Airport, Illinois, renamed Peoria, Greater Peoria Regional Airport, Illinois; Evansville Dress Regional Airport, Indiana, renamed Evansville, Regional Airport, Indiana; Fort Wayne, Municipal Airport, Indiana, renamed Fort Wayne, Baer Field, Indiana; Michigana Regional Airport, South Bend, Indiana, renamed South Bend, Michigana Regional Airport, Indiana; Flint Bishop Airport, Michigan, renamed Flint, Bishop International Airport, Michigan; Port Columbus International Airport, Columbus, Ohio, renamed Columbus, Port Columbus International Airport, Ohio; James M. Cox Dayton International Airport, Ohio, renamed Dayton, James M. Cox Dayton International Airport, Ohio; Green Bay, Austin Straubel Field, Wisconsin, renamed Green Bay, Austin Straubel International Airport, Wisconsin; General Mitchell Field, Milwaukee, Wisconsin, renamed Milwaukee, General Mitchell International Airport, Wisconsin, Bradley International Airport, Winsdsor Locks, Bradley International Airport, Connecticut, renamed Windsor Locks, Connecticut; Fairchild Air Force Base, Washington, renamed Spokane, Fairchild Air Force Base, Washington; Bates Field, Mobile, Alabama, renamed Mobile, Mobile Regional Airport, Alabama; Huntsville-Madison County Carl T. Jones Field, Alabama, renamed Huntsville International-Carl T. Jones Field, Alabama; Tallahassee Municipal Airport, Florida renamed Tallahassee Regional Airport, Florida; Whiting Naval Air Station, Florida, renamed Milton Naval Air Station, Whiting Field, Florida; Greater Cincinnati International Airport, Kentucky renamed Cincinnati-Northern Kentucky International Airport, Kentucky; Jackson, Allen C. Thompson Field, Mississippi, renamed Jackson International Airport, Mississippi, Greensboro-High Point-Winston Salem Regional Airport, North Carolina, renamed Greensboro-Piedmont Triad International Airport, North Carolina; Raleigh-Durham Airport, North Carolina, renamed Raleigh-Durham International Airport, North Carolina; Nashville Metropolitan Airport, Tennessee, renamed Nashville International Airport, Tennessee; Davis-Monthan Air Force Base, Arizona, renamed Tucson Davis-Monthan Air Force Base, Arizona; Beale Air Force Base, California, renamed Marysville, Beale Air Force Base, California; Castle Air Force Base, California, renamed Merced, Castle Air Force Base, California; March Air Force Base, California, renamed Riverside, March Air Force Base, California; Mather Air Force Base, California, renamed Sacramento, Mather Air Force Base, California; McClellan Air Force Base, California, renamed Sacramento, McClellan Air Force Base, California; Metropolitan Oakland International Airport, California, renamed Oakland (Metropolitan) International Airport, California; Norton Air Force Base, California, renamed San Bernardino, Norton Air Force Base, California; and Santa Ana, California, renamed Santa Ana, John Wayne Airport/Orange County, California.

The FAA proposes to incorporate minor, non-substantive changes in the legal descriptions of the TCAs listed below, which are described in § 401 of FAA Order 7400.7 and Subpart B of FAA Order 7400.9. These include terminology such as changing "½" to "0.5," replacing existing references to control zones with language to describe the same airspace, replacing "VORTAC" with "VOR/DME," and any changes necessary for charting purposes. For example, the proposed revision to the Phoenix, Arizona TCA would revise the airspace description because of the replacement of the Salt River VORTAC with the Phoenix VORTAC. The airspace that is based on a radial from the Salt River VORTAC would be replaced with the geographic positions of the boundary, which would not revise the actual airspace area. The Phoenix TCA would be revised if that same airspace were based on a radial from the Phoenix VORTAC.

Name and facility	Current geographic position	Proposed geographic position
FAA Region: Central		
Kansas City, MO		
Kansas City International Airport	lat. 39°18'18"N., long. 94°42'40"W..	lat. 39°17'57"N., long. 94°43'04"W.
Sherman Army Airfield	lat. 39°22'10"N., long. 94°54'45"W..	lat. 39°22'06"N., long. 94°54'52"W
FAA Region: Eastern		
Washington, Tri-Area, DC		
Andrews Air Force Base	lat. 38°48'40"N., long. 76°52'05"W..	lat. 38°48'39"N., long. 76°52'02"W.
Washington National Airport	lat. 38°51'07"N., long. 77°02'17"W..	lat. 38°51'08"N., long. 77°02'17"W.
New York, NY		
John F. Kennedy International Airport	lat. 40°38'25"N., long. 73°46'41"W..	lat. 40°38'25"N., long. 73°46'42"W.
LaGuardia Airport	lat. 40°46'36"N., long. 73°52'24"W..	lat. 40°46'38"N., long. 73°52'23"W.
Newark International Airport	lat. 40°41'40"N., long. 74°10'02"W..	lat. 40°41'34"N., long. 74°10'08"W.
Kennedy VORTAC	lat. 40°37'59"N., long. 73°46'25"W..	lat. 40°37'58"N., long. 73°46'19"W.
Philadelphia, PA		
Philadelphia International Airport	lat. 39°52'23"N., long. 75°14'58"W..	lat. 39°52'13"N., long. 75°14'43"W.
Pittsburgh, PA		
Greater Pittsburgh International Airport	lat. 40°29'37"N., long. 80°13'54"W..	lat. 40°29'29"N., long. 80°13'58"W.
FAA Region: Great Lakes		
Chicago, IL		
Chicago O'Hare International Airport	lat. 41°58'57"N., long. 87°54'25"W..	lat. 41°58'46"N., long. 87°54'16"W.
Detroit, MI		
Detroit Metropolitan Wayne County Airport	lat. 42°13'07"N., long. 83°20'55"W..	lat. 42°12'55"N., long. 83°20'55"W.
Cleveland, OH		
Cleveland-Hopkins International Airport	lat. 41°24'37"N., long. 81°50'56"W..	lat. 41°24'39"N., long 81°50'58"W.
Cleveland-Hopkins DME antenna	lat. 41°24'15"N., long. 81°51'44"W..	lat. 41°24'15"N., long. 81°51'43"W.
Burke-Lakefront Airport	lat. 41°30'45"N., long. 81°41'15"W..	lat. 41°31'03"N., long. 81°41'01"W.
FAA Region: New England		
Boston, MA		
Logan International Airport	lat. 42°21'47"N., long. 71°00'19"W..	lat. 42°21'51"N., long. 71°00'20"W.
Boston VORTAC	lat. 42°21'28"N., long. 70°59'38"W..	lat. 42°21'27"N., long. 70°59'24"W.
FAA Region: Northwest Mountain		
Denver, CO		
Stapleton International Airport	lat. 39°45'55"N., long. 104°52'46"W..	lat. 39°46'28"N., long. 104°52'45"W.
FAA Region: Southern		
Miami, FL		
Miami International Airport	lat. 25°47'34"N., long. 80°17'10"W..	lat. 25°47'34"N., long. 80°17'26"W.
Atlanta, GA		
The William B. Hartsfield International Airport	lat. 33°38'31"N., long. 84°25'34"W..	lat. 33°38'25"N., long. 84°25'37"W.
Charlotte, NC		
Gastonia Municipal Airport	lat. 35°12'01"N., long. 81°09'04"W..	lat. 35°12'00"N., long. 81°09'01"W.
Memphis, TN		
Memphis International Airport	lat. 35°02'59"N., long. 89°58'43"W..	lat. 35°02'51"N., long. 89°58'43"W.
FAA Region: Southwest		
New Orleans, LA		
New Orleans International Airport—Moisant Field	lat. 29°59'30"N., long. 90°15'37"W..	lat. 29°59'35"N., long. 90°15'28"W.
Callendar Naval Air Station	lat. 29°49'40"N., long. 90°01'25"W..	lat. 29°49'30"N., long. 90°02'06"W.
Houston, TX		
Houston Intercontinental Airport	lat. 29°59'08"N., long. 95°20'46"W..	lat. 29°58'49"N., long. 95°20'22"W.
West Houston Airport	lat. 29°49'02"N., long. 95°40'29"W..	lat. 29°49'05"N., long. 95°40'21"W.
FAA Region: Western-Pacific		
Los Angeles, CA		
Los Angeles International Airport	lat. 33°56'25"N., long. 118°24'10"W..	lat. 33°56'33"N., long. 118°24'26"W.
San Diego, CA		
San Diego International/Lindberg Field	lat. 32°43'58"N., long. 117°11'14"W..	lat. 32°44'01"N., long. 117°11'12"W.

Name and facility	Current geographic position	Proposed geographic position
Miramar Naval Air Station	lat. 32°52'30"N., long. 117°08'15"W..	lat. 32°52'09"N., long. 117°08'37"W.
San Francisco, CA		
San Francisco International Airport	lat. 37°37'07"N., long. 122°22'35"W..	lat. 37°37'09"N., long. 122°22'26"W.
Honolulu, HI		
Honolulu International Airport	lat. 21°19'20"N., long. 157°55'27"W..	lat. 21°19'19"N., long. 157°55'31"W.
Las Vegas, NV		
McCarren International Airport	lat. 36°04'48"N., long. 115°09'08"W..	lat. 36°04'50"N., long. 115°09'01"W.

The FAA proposes to modify the legal description of the ARSAs listed below as well as minor revisions to Windsor Locks, Bradley International Airport, Connecticut, and Santa Barbara, California. The legal descriptions are contained in § 501 of FAA Order 7400.7 and Subpart C of FAA Order 7400.9. These changes include phraseology changes, use of decimals instead of fractions, deletion of the word "nautical" in references to nautical miles, use of consist format in the airspace descriptions, and any changes necessary for charting purposes.

Name and facility	Current geographic position	Proposed geographic position
FAA Region: Central		
Cedar Rapids, IA		
Cedar Rapids Municipal Airport	lat. 41°53'04"N., long. 91°42'31"W.	lat. 41°53'05"N., long. 91°42'39"W.
Omaha, NE		
Eppley Airfield	lat. 41°18'04"N., long. 95°53'36"W.	lat. 41°18'08"N., long. 91°53'36"W.
Omaha, NE		
Offutt Air Force Base	lat. 41°07'06"N., long. 95°54'42"W.	lat. 41°07'06"N., long. 95°54'44"W.
FAA Region: Eastern		
Atlantic City, NJ		
Atlantic City International Airport	lat. 39°27'24"N., long. 74°34'41"W.	lat. 39°27'27"N., long. 74°34'39"W.
Buffalo, NY		
Buffalo Airfield	lat. 42°51'40"N., long. 78°43'00"W.	lat. 42°51'43"N., long. 78°43'01"W.
Syracuse, NY		
Syracuse Hancock International Airport	lat. 43°06'44"N., long. 76°06'32"W.	lat. 43°06'40"N., long. 76°06'24"W.
Norfolk, VA		
Langley Air Force Base	lat. 37°05'05"N., long. 76°21'25"W.	lat. 37°04'58"N., long. 76°21'39"W.
Roanoke, VA		
Roanoke Regional Airport	lat. 37°19'29"N., long. 79°58'35"W.	lat. 37°19'31"N., long. 79°58'32"W.
FAA Region: Great Lakes		
Moline, IL		
Quad City Airport	lat. 41°26'55"N., long. 90°30'29"W.	lat. 41°26'55"N., long. 90°30'24"W.
Peoria, IL		
Greater Peoria Regional Airport	lat. 40°39'53"N., long. 89°41'31"W.	lat. 40°39'53"N., long. 89°41'30"W.
Fort Wayne, IN		
Fort Wayne Municipal Airport	lat. 40°58'42"N., long. 85°11'28"W.	lat. 40°58'42"N., long. 85°11'41"W.
Indianapolis, IN		
Indianapolis International Airport	lat. 39°43'28"N., long. 86°17'00"W.	lat. 39°43'12"N., long. 86°17'13"W.
South Bend, IN		
Michiana Regional Airport	lat. 41°42'17"N., long. 86°19'00"W.	lat. 41°42'20"N., long. 86°19'04"W.
Lansing, MI		
Capital City Airport	lat. 42°46'43"N., long. 84°35'14"W.	lat. 42°46'43"N., long. 84°35'15"W.
Akron, OH		
Akron-Canton Regional Airport	lat. 40°55'01"N., long. 81°26'30"W.	lat. 40°54'59"N., long. 81°26'33"W.
Dayton, OH		
James M. Cox International Airport	lat. 39°54'04"N., long. 84°13'12"W.	lat. 39°54'08"N., long. 84°13'10"W.
Green Bay, WI		
Austin Straubel International Airport	lat. 44°29'17"N., long. 88°07'39"W.	lat. 44°29'06"N., long. 88°07'43"W.
Milwaukee, WI		
General Mitchell Field	lat. 42°56'49"N., long. 87°53'49"W.	lat. 42°56'48"N., long. 87°53'49"W.
FAA Region: New England		
Providence, RI		
Theodore Francis Green State Airport	lat. 41°43'31"N., long. 71°25'41"W.	lat. 41°43'30"N., long. 71°25'42"W.
FAA Region: Northwest Mountain		
Colorado Springs, CO		
Colorado Springs Municipal Airport	lat. 38°48'31"N., long. 104°42'35"W.	lat. 38°48'43"N., long. 104°42'40"W.
Portland, OR		
Evergreen Airport, WA	lat. 45°37'20"N., long. 122°31'15"W.	lat. 45°37'20"N., long. 122°31'41"W.
Pearson Airpark, WA	lat. 45°37'17"N., long. 122°39'22"W.	lat. 45°37'15"N., long. 122°39'26"W.
Spokane, WA		
Fairchild Air Force Base	lat. 47°36'54"N., long. 117°39'24"W.	lat. 47°36'54"N., long. 117°39'25"W.
Whidbey Island, WA		
Whidbey Island Naval Air Station, Ault Field	lat. 48°21'06"N., long. 122°39'12"W.	lat. 48°21'08"N., long. 122°39'15"W.
FAA Region: Southern		
Mobile, AL		
Mobile Regional Airport	lat. 30°41'23"N., long. 88°14'31"W.	lat. 30°41'28"N., long. 88°14'34"W.
Huntsville, AL		
Huntsville International Airport-Carl T. Jones Field	lat. 34°38'28"N., long. 86°46'26"W.	lat. 34°38'28"N., long. 86°46'27"W.

Name and facility	Current geographic position	Proposed geographic position
Fort Lauderdale, FL		
Fort Lauderdale-Hollywood International Airport	lat. 26°04'19"N., long. 80°09'13"W.	lat. 26°04'20"N., long. 80°09'11"W.
Palm Beach, FL		
Palm Beach County Airpark	lat. 26°35'36"N., long. 80°05'09"W.	lat. 26°35'33"N., long. 80°05'08"W.
Pensacola Naval Air Station, FL		
Forrest Sherman Field	lat. 30°21'12"N., long. 87°19'12"W.	lat. 30°21'10"N., long. 87°19'13"W.
Tallahassee, FL		
Tallahassee Regional Airport	lat. 30°23'45"N., long. 84°21'02"W.	lat. 30°23'47"N., long. 84°21'02"W.
Savannah, GA		
Savannah International Airport	lat. 32°07'39"N., long. 81°12'09"W.	lat. 32°07'38"N., long. 81°12'09"W.
Covington, KY		
Cincinnati-Northern Kentucky International Airport	lat. 39°02'52"N., long. 84°40'00"W.	lat. 39°02'46"N., long. 84°39'38"W.
Lexington, KY		
Blue Grass Airport	lat. 38°02'12"N., long. 84°36'21"W.	lat. 38°02'13"N., long. 84°36'20"W.
Columbus, MS		
Columbus Air Force Base	lat. 33°38'36"N., long. 88°26'36"W.	lat. 33°38'37"N., long. 88°26'38"W.
Jackson, MS		
Jackson International Airport	lat. 32°18'36"N., long. 90°04'28"W.	lat. 32°18'40"N., long. 90°04'33"W.
Fayetteville, NC		
Fayetteville Municipal/Grannis Field Airport	lat. 34°59'26"N., long. 78°52'50"W.	lat. 34°59'29"N., long. 78°52'49"W.
Gray's Creek Airport	lat. 34°53'01"N., long. 78°50'09"W.	lat. 34°53'03"N., long. 78°50'09"W.
Greensboro, NC		
Greensboro/Piedmont Triad International Airport	lat. 36°05'47"N., long. 79°56'21"W.	lat. 36°05'51"N., long. 79°56'15"W.
Pope Air Force Base, NC		
Pose Air Force Base	lat. 35°09'58"N., long. 79°01'03"W.	lat. 35°10'15"N., long. 79°00'53"W.
Raleigh, NC		
Raleigh-Durham International Airport	lat. 35°52'19"N., long. 78°47'07"W.	lat. 35°52'39"N., long. 78°47'15"W.
Columbia, SC		
Owens Downtown Airport	lat. 33°58'28"N., long. 80°59'55"W.	lat. 33°58'14"N., long. 80°59'45"W.
Greer, SC		
Greenville-Spartanburg Airport	lat. 34°53'47"N., long. 82°13'07"W.	lat. 34°53'56"N., long. 82°12'50"W.
Shaw Air Force Base, SC		
Shaw Air Force Base	lat. 33°58'24"N., long. 80°28'24"W.	lat. 33°58'22"N., long. 80°28'23"W.
Sumter Municipal Airport	lat. 33°59'42"N., long. 80°21'45"W.	lat. 33°59'41"N., long. 80°21'41"W.
Chattanooga, TN		
Lovell Field	lat. 35°02'07"N., long. 85°12'15"W.	lat. 35°02'07"N., long. 85°12'14"W.
Nashville, TN		
Nashville International Airport	lat. 36°07'37"N., long. 86°40'53"W.	lat. 36°07'31"N., long. 86°40'35"W.
FAA Region: Southwest		
Little Rock, AR		
Adams Field	lat. 34°43'48"N., long. 92°13'59"W.	lat. 34°44'48"N., long. 92°13'27"W.
Barksdale Air Force Base, LA		
Shreveport Downtown Airport	lat. 32°32'33"N., long. 93°44'40"W.	lat. 32°32'23"N., long. 93°44'40"W.
Shreveport Regional Airport	lat. 32°26'48"N., long. 93°49'30"W.	lat. 32°26'47"N., long. 93°49'32"W.
Baton Rouge, LA		
Ryan Field	lat. 30°31'57"N., long. 91°08'59"W.	lat. 30°31'59"N., long. 91°08'58"W.
Lafayette, LA		
Lafayette Regional Airport	lat. 30°12'14"N., long. 91°59'16"W.	lat. 30°12'18"N., long. 91°59'15"W.
Shreveport, Shreveport Regional Airport, LA		
Shreveport Regional Airport	lat. 32°26'48"N., long. 93°49'30"W.	lat. 32°26'47"N., long. 93°49'32"W.
Albuquerque, NM		
Albuquerque International Airport	lat. 35°02'30"N., long. 106°36'23"W.	lat. 35°02'27"N., long. 106°36'29"W.
Oklahoma City, Tinker Air Force Base and Will Rogers World Airport, OK		
Tinker Air Force Base	lat. 35°25'06"N., long. 97°23'18"W.	lat. 35°25'06"N., long. 97°23'20"W.
University of Oklahoma Westheimer Airpark	lat. 35°15'00"N., long. 97°28'00"W.	lat. 35°14'44"N., long. 97°28'19"W.
Tulsa, OK		
Tulsa International Airport	lat. 36°11'54"N., long. 95°53'16"W.	lat. 36°11'54"N., long. 95°53'17"W.
Amarillo, TX		
Amarillo International Airport	lat. 35°13'16"N., long. 101°42'37"W.	lat. 35°13'10"N., long. 101°42'20"W.
Abilene, Dyess Air Force Base, TX		
Dyess Air Force Base	lat. 32°25'12"N., long. 99°51'12"W.	lat. 32°25'12"N., long. 99°51'24"W.
Del Rio, TX		
Laughlin Air Force Base	lat. 29°21'35"N., long. 100°46'35"W.	lat. 29°21'35"N., long. 100°46'38"W.
El Paso, TX		
West Texas Airport	lat. 31°43'10"N., long. 106°14'37"W.	lat. 31°43'11"N., long. 106°14'20"W.
FAA Region: Western-Pacific		
Tucson, Davis-Monthan Air Force Base and Tucson International Airport, AZ		
Davis-Monthan Air Force Base	lat. 32°09'54"N., long. 110°52'54"W.	lat. 32°09'59"N., long. 110°52'57"W.
Tucson International Airport	lat. 32°07'06"N., long. 110°56'35"W.	lat. 32°06'58"N., long. 110°56'26"W.
El Toro, CA		
El Toro Marine Corps Air Station	lat. 33°40'34"N., long. 117°43'49"W.	lat. 33°40'03"N., long. 117°43'06"W.
Fresno, CA		
Fresno Air Terminal Airport	lat. 36°46'28"N., long. 119°42'58"W.	lat. 36°46'34"N., long. 119°43'02"W.
Merced, Castle Air Force Base, CA		
Castle Air Force Base	lat. 37°22'52"N., long. 120°34'00"W.	lat. 37°22'50"N., long. 120°34'02"W.
Monterey, CA		
Monterey Peninsula Airport	lat. 36°35'19"N., long. 121°50'52"W.	lat. 36°35'13"N., long. 121°50'31"W.
Ontario, CA		
Ontario International Airport	lat. 34°03'26"N., long. 117°36'29"W.	lat. 34°03'22"N., long. 117°36'01"W.
Upland Cable Airport	lat. 34°06'50"N., long. 117°41'20"W.	lat. 34°06'43"N., long. 117°41'12"W.

Name and facility	Current geographic position	Proposed geographic position
Chino Airport	lat. 33°58'30"N., long. 117°38'00"W.	lat. 33°58'31"N., long. 117°38'10"W.
Riverside, CA		
March Air Force Base	lat. 33°53'01"N., long. 117°15'38"W.	lat. 33°52'50"N., long. 117°15'31"W.
Sacramento, McClellan Air Force Base, CA		
McClellan Air Force Base	lat. 38°40'02"N., long. 121°23'58"W.	lat. 38°40'04"N., long. 121°23'58"W.
Sacramento, Sacramento Metropolitan Airport, CA		
Metropolitan Airport	lat. 38°41'44"N., long. 121°36'01"W.	lat. 38°41'44"N., long. 121°35'23"W.
San Bernadino, Norton Air Force Base, CA		
Norton Air Force Base	lat. 34°05'43"N., long. 117°14'03"W.	lat. 34°05'43"N., long. 117°14'12"W.
San Jose, CA		
San Jose International Airport	lat. 37°21'41"N., long. 121°55'38"W.	lat. 37°21'42"N., long. 121°55'39"W.
Kahului, HI		
Kahului Airport	lat. 20°54'07"N., long. 156°25'59"W.	lat. 20°54'07"N., long. 156°26'00"W.
Reno, NV		
Cannon International Airport	lat. 39°29'52"N., long. 119°46'04"W.	lat. 39°29'57"N., long. 119°46'02"W.

Incorporation by Reference

The FAA proposes to amend the airspace descriptions of all control zones and transition areas. These descriptions are not listed in the Code of Federal Regulations (CFR) and are not set forth in the full text of this NPRM. The full listing for all control zones and transition areas is contained in FAA Order 7400.7, Compilation of Regulations, effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1.

Under the Airspace Reclassification final rule, the airspace descriptions for control zones and transition areas are set forth as Class D and Class E airspace areas in Subparts D and E of FAA Order 7400.9, Airspace Reclassification, effective September 16, 1993, which is also incorporated by reference in 14 CFR 71.1. These descriptions are not listed in the CFR and are not set forth in the full text of this NPRM.

Subsequent to the final agency coordination resulting in the issuance of the final rule for Airspace Reclassification (56 FR 65638), the FAA reviewed various airspace descriptions for TCAs and ARSAs. These airspace descriptions are contained in §§ 401 and 501 of FAA Order 7400.7. As a result of this review, the FAA made editorial, non-substantive revisions to those airspace descriptions. With the exception of the proposed revision to the surface area of the Anchorage, Alaska ARSA, these revisions either changed the name of the airspace description, the language of the legal description of the airspace, or the language for charting purposes. These revisions did not change the dimensions of the affected airspace areas, nor did they alter the substantive provisions of the final rule. The FAA intends, therefore, to include these revisions as part of this rulemaking action. This action is necessary to expeditiously correct the final rule issued on December 17, 1991, and to clarify regulatory requirements.

The airspace descriptions for TCAs and ARSAs are not found in the CFR and were not set forth in the full text of the final rule. The complete listing for all TCAs and ARSAs can be found in §§ 401 and 501 of FAA Order 7400.7, Compilation of Regulations, effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The airspace descriptions for TCAs and ARSAs are set forth as Class B and Class C airspace areas in Subparts B and C of FAA Order 7400.9, Airspace Reclassification, which is also incorporated by reference in 14 CFR 71.1 (effective until September 16, 1993).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this proposed rule.

Regulatory Evaluation Summary

This section summarizes the regulatory evaluation prepared by the FAA. The regulatory evaluation provides more detailed information on estimates of the potential economic consequences of this proposal. This summary and the evaluation quantify, to the extent practicable, the estimated costs of the proposal to the private sector, consumers, and Federal, state, and local governments, and also the anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, or a significant adverse effect on competition.

The FAA has determined that this proposal is not "major" as defined in the executive order. Therefore, a full regulatory impact analysis, which includes the identification and evaluation of cost-reducing alternatives to the proposal, has not been prepared. Instead, the agency has prepared a more concise document termed a "regulatory evaluation," which analyzes only this proposed rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains an initial regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (Pub. L. 96–354) and an international trade impact assessment. For more detailed economic information, the reader should consult the regulatory evaluation contained in the docket.

This regulatory evaluation summary analyzes the potential costs and benefits of the proposed amendment of part 71 of the FAR. The proposed rule would accomplish this task by revising each of the following areas:

- Control Zones and Associated Transition Areas for the Primary Airport of a TCA or an ARSA;
- Control Zones and Associated Transition Areas for Airports with Operating Control Towers that are not the Primary Airport of a TCA or ARSA;
- Control Zones and Associated Transition Areas for Airports without Operating Control Towers; and,
- Transition Areas not Associated with Control Zones.

This NPRM was prompted by the Airspace Reclassification rule and complements that rule. It would ensure that implementation of the Airspace Reclassification rule will meet the new classifications related to Class D and Class E airspace areas. The proposed rule would modify the lateral and

vertical dimensions of airspace areas. This proposed rule is expected to ease the conversion from the existing control zones and associated transition areas to Class D and Class E airspace areas and is consistent with the primary intent of the Airspace Reclassification rule, which is to simplify U.S. airspace.

This proposed rule and the final rule for Airspace Reclassification are integral parts of the FAA's general rulemaking effort to reclassify U.S. airspace. The Airspace Reclassification rule represents the policy action and this proposed rule represents the procedural action of accomplishing the airspace reclassification.

The Airspace Reclassification rule was issued on December 17, 1991 (56 FR 65638). The costs of modifying the charts (including symbol changes) and the benefits of enhanced safety and airspace simplification that otherwise would have been reflected in this proposed rule have already been attributed to the Airspace Reclassification rule. The FAA recognizes that part of those benefits (enhanced safety and simplification of U.S. airspace) and costs ($1.9 million) estimated for the Airspace Reclassification rule flow directly from this proposed rule, although it is difficult to estimate in what proportion. Therefore, the types of costs and benefits this proposal shares with the Airspace Reclassification rule are highlighted in the following sections.

Costs

This proposal is not expected to impose costs on either aircraft operators (e.g., in terms of the inconvenience of having to engage in two-way radio communications with air traffic control or additional circumnavigation) or society (e.g., in terms of lowered safety). However, this proposal would impose additional administrative duties on the FAA. The costs required to perform those duties have already been accounted for in the Airspace Reclassification rule. The FAA administrative costs imposed by this proposal are part of the $1.9 million (discounted) estimate derived for the Airspace Reclassification rule, which will be briefly discussed below.

The assessment that no costs would be imposed on either aircraft operators or society is based on an evaluation of each of the four areas that would be affected by this NPRM for Terminal Airspace Reconfiguration:

(1) *Control zones and associated transition areas for the primary airports of TCAs or ARSAs.* This proposed requirement would not impose any additional requirements for aircraft operators in either TCAs or ARSAs. The lateral boundaries and vertical limits of control zones and associated transition areas for the primary airports of TCAs or ARSAs would remain essentially unchanged.

(2) *Control zones and associated transition areas for airports with operating control towers not associated with the primary airports of TCAs or ARSAs.* This proposed requirement would not impose any additional requirements for aircraft operators in either TCAs or ARSAs. Control zones for airports with operating control towers not associated with TCAs or ARSAs have been reviewed according to the revised criteria to ensure that the control zones contain intended terminal operations under IFR. The proposed modifications exclude satellite airports without operating control towers from control zones as long as aviation safety is not jeopardized.

This component of the proposed rule would provide relief to aircraft operators. Under existing rules, there is a communication requirement for pilots operating within an airport traffic area that extends from the surface up to but not including 3,000 feet above the airport. The FAA proposes that control zones terminate at an altitude that would accommodate terminal operations under IFR. In most cases, this altitude is 2,500 feet above the surface, rounded to the nearest 100-foot increment, and expressed in MSL. This component of the proposed rule would relieve operators of the need to circumnavigate the control zone or the inconvenience of having to engage in two-way radio communications with air traffic control in the airspace more than 2,500 feet above the surface. These control zones still would be indicated on aeronautical charts by a segmented blue line.

(3) *Control zones and associated transition areas for airports without operating control towers.* As noted previously for the other components of the proposed rule, this proposed action would not impose any additional costs on either aircraft operators or society. This component is procedural in nature. The control zones would extend upward from the surface and terminate at the overlying or adjacent controlled airspace.

(4) *Transition areas not associated with control zones.* This component of the proposed rule would not impose additional costs on either aircraft operators or society. Transition areas that are not associated with control zones have been reviewed under the revised criteria to ensure that the transition areas contain intended operations under IFR.

The cost to the FAA associated with this Terminal Airspace Reconfiguration proposal is included in the $1.9 million cost estimate of the Airspace Reclassification rule. As discussed above, this is because the FAA's administrative costs, which include modification of manuals, charts, and training materials, have already been accounted for in the Airspace Reclassification rule. For a detailed discussion of how these costs were derived, the reader is directed to the final regulatory evaluation of the Airspace Reclassification rule. A brief discussion explaining each of these costs is presented below.

Aeronautical Charts

The terminal airspace reconfiguration proposal would result in modifications to the aeronautical charts. All of these changes have already been included as part of the estimated $1.2 million charting costs for the Airspace Reclassification rule.

Air Traffic Training Courses

The cost of revising the courses used to instruct new traffic controllers in the terminal airspace areas is part of an estimated $52,000 (discounted) in controller training costs. This includes developing and conducting a one-week seminar for FAA student controllers ($9,000) and revising lesson plans, visual aids, handouts, laboratory exercises, and tests ($43,000).

Pilot Re-education

The cost of re-educating the pilot community about the modifications in the terminal airspace reconfiguration proposal is part of an estimated $618,000 (discounted). This includes publishing and mailing an advisory circular ($550,000) and producing a video tape documenting the new airspace classifications ($68,000).

Conversion of Statute Miles to Nautical Miles

The statute mile designations in FAA Order 7400.7, Compilation of Regulations, and FAA Order 7400.9, Airspace Reclassification, are being converted to nautical miles as part of the Airspace Reclassification rule. The terminal airspace reconfiguration proposal would share some of the $1,200 (discounted) cost to complete this conversion.

Benefits. The proposed rule is expected to generate total incremental benefits (qualitative) in the form of enhanced safety and operational

efficiency to the aviation community by ensuring that the potential benefits of the airspace reclassification rule materialize as expected. A brief discussion of most of those safety and operational efficiency benefits is provided below.

Increased Safety Due to Better Understanding and Simplification

The FAA believes that the simplified classification in this proposal and the Airspace Reclassification rule will reduce airspace complexity and thereby enhance safety by reducing a possible source of confusion to pilots. This airspace reclassification essentially mirrors the new ICAO airspace designations, except there will be no Class F in the United States. This proposal and that rule would also increase safety in the United States because foreign pilots operating aircraft in U.S. airspace will be familiar with the airspace designations and classification system.

Another simplification that is expected to help increase airspace safety is correlating the class of controlled airspace currently termed a control zone with the airspace of the surrounding area. There are now several types of designated airspace around an airport that make it difficult for pilots and controllers to determine how the areas are classified and which requirements apply. After the reclassification, the terminology will be simplified.

The conversion of statute mile designations to nautical mile designations is intended to simplify operations further. Instruments on board the aircraft are calibrated in nautical miles and aviation charts have representations in nautical miles. Therefore, pilots will no longer have to convert between nautical and statute miles. This simplification will help pilots to operate in and controllers to control traffic in the airspace designated in part 71.

Conclusion. This proposal is not expected to impose costs on either aircraft operators (in terms of additional equipment or additional circumnavigation) or society (in terms of lowered safety). This proposal would impose additional administrative duties on the FAA. However, the costs required to perform those duties have already been accounted for in the Airspace Reclassification rule. The FAA administrative costs imposed by this proposal are part of the $1.9 million (discounted) estimate derived for the Airspace Reclassification rule. The proposal would ensure a simpler, more efficient, and more uniform airspace system as expected under the Airspace Reclassification rule. This proposed action would ultimately result in increased safety to the aviation community. Thus, the FAA concludes that the benefits of the proposal are greater than its costs.

International Trade Impact Assessment

This proposed rule would affect only airspace inside of the United States. It would not impose any adverse operating requirements on foreign aircraft operators. A number of foreign aircraft operators are already operating under airspace requirements similar to those in the U.S. Airspace Reclassification rule and proposed in this NPRM. By September 16, 1993, virtually all foreign aircraft operators will be operating in airspace having designations and requirements similar to those requirements set forth in this NPRM and in the Airspace Reclassification rule (which is based on ICAO airspace classifications). Also, this proposal would not affect the sale of foreign aviation products or services in the United States, or the sale of United States products or services in foreign countries.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have "a significant economic impact on a substantial number of small entities." The small entities that could be potentially affected by the implementation of this proposed rule are pilot training schools.

As discussed in the Airspace Reclassification rule, training materials used in the courses offered by the pilot training schools would have to be modified to reflect the changes of the airspace reclassification. However, it was determined that pilot training schools would not incur any cost impact because the documents they use must be updated regularly as a normal course of business. Thus, it has been determined that there would be no cost impact to those pilot training schools. Therefore, the FAA believes that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Federalism Implications

The regulation proposed herein would not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposed rule would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion. For the reasons discussed in the preamble, and based on the findings in the Initial Regulatory Flexibility Determination and the International Trade Impact Assessment, the FAA has determined that this proposed regulation is not major under Executive Order 12291. In addition, the FAA certifies that this proposal, if adopted, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). An initial regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, REPORTING POINTS, JET ROUTES, AND AREA HIGH ROUTES

Note: Effective December 17, 1991 through September 15, 1993.

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The complete listing of proposed airspace descriptions for transition areas, control zones, airport radar service areas, and terminal control areas can be found in Docket Number 26852 and the docket at the office of the Regional Air Traffic Division, as listed under **ADDRESSES.** These are proposed changes to the incorporation by

reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.7, *Compilation of Regulations*, published April 30, 1991, and effective November 1, 1991.

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

Note: Effective September 16, 1993.

1. The authority citation for part 71 revised to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The complete listing of proposed airspace descriptions for Class E, Class D, Class C, and Class B airspace areas (under each areas' current designation as transition areas, control zones, airport radar service areas, and terminal control areas, respectively) can be found in Docket Number 26852 and the docket at the office of the Regional Air Traffic Division, as listed under **ADDRESSES**. These are proposed changes to the incorporation by reference in 14 CFR 71.1, effective September 16, 1993, of Federal Aviation Administration Order 7400.9, *Airspace Reclassification*, effective September 16, 1993.

Harold W. Becker,

Manager, Airspace Rules and Aeronautical Information Division.

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Friday
May 1, 1992

Part III

Department of Education

34 CFR Part 303

Early Intervention Program for Infants and Toddlers With Disabilities; Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 303

RIN 1820-AA97

Early Intervention Program for Infants and Toddlers With Disabilities

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend existing regulations that govern the Early Intervention Program for Infants and Toddlers with Disabilities. These amendments are needed to implement the Individuals with Disabilities Education Act Amendments of 1991. The proposed regulations would incorporate statutory changes and provide rules for applying for and spending Federal funds under this program.

DATES: Comments must be received on or before June 30, 1992.

ADDRESSES: All comments concerning these proposed regulations should be addressed to James Hamilton, U.S. Department of Education, 400 Maryland Avenue, SW. (Switzer Building, room 4611), Washington, DC 20202-2732.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Peggy Cvach or Bobbi Stettner-Eaton, U.S. Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Rooms 4609 and 4618, respectively), Washington, DC 20202-2732. Telephone: (202) 732-5807 and (202) 732-2028, respectively. Individuals with hearing impairments or deafness may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: These proposed regulations would implement the Individuals with Disabilities Education Act Amendments of 1991, Pub. L. 102-119 (enacted October 7, 1991), as that statute affects the program authorized by part H of the Individuals with Disabilities Education Act. The 1991 amendments to the part H program were enacted to promote a seamless system of services for children with disabilities from birth through five years of age and their families.

The amendments to part H are an important step forward in carrying out AMERICA 2000 and addressing the National Education Goals. Specifically, the amendments address Goal 1, that all children will start school ready to learn.

Summary of Major Provisions

The following is a summary of the major statutory provisions of the Individuals with Disabilities Education Act Amendments of 1991 that would be incorporated in 34 CFR part 303, the Department's regulations for the Early Intervention Program for Infants and Toddlers with Disabilities. The summary also describes any regulations that the Secretary is proposing in this notice of proposed rulemaking (NPRM) to implement those statutory provisions. In addition, the summary describes other regulations that the Secretary is proposing for the purpose of updating, clarifying, and in other ways of improving the rules for this program. The NPRM includes some minor technical changes that are not discussed. All references in the following discussion to section numbers are to the regulations as they are proposed to be amended.

The Secretary invites comments on the proposed regulations described above. For the convenience of the reader, this document contains the full text of part 303 as the regulations would read with the proposed amendments. In addition, readers may obtain from the contact persons identified in this document a mark-up of part 303 showing all changes to the regulations made or proposed since the publication of the Code of Federal Regulations as of July 1, 1991. However, the Secretary intends to amend part 303 only in the areas addressed by the proposed amendments. Readers are accordingly requested to direct their comments to these areas.

Section 303.1 Purpose of the Early Intervention Program for Infants and Toddlers with Disabilities

The statute contains an additional congressional finding for part H relating to the need to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations. This finding is incorporated in the regulations as an additional purpose of the part H program. Section 303.1(d).

Section 303.2 Eligible Recipients of an Award

Public Law 102-119 amends section 684(b) of the Act to permit the Secretary of the Interior to receive part H funds for Indian tribes and tribal organizations without submitting an application.

Public Law 102-73 (enacted July 25, 1991) amended the definition of "State" in section 602(a)(6) of the Act with respect to the Trust Territory of the Pacific Islands. These amendments are implemented in § 303.2 by (1) revising the title of the section to refer to "recipients" rather than "applicants," and (2) providing for the eligibility of Palau until the Compact of Free Association with Palau takes effect.

Section 303.3 Activities that May Be Supported under this Part

The statute adds a new provision that, for the first time, permits a State to use funds under part H of the Act to provide a free appropriate public education, in accordance with part B of the Act, to children with disabilities from their third birthday to the beginning of the following school year. This provision is incorporated in the regulations in § 303.3(d).

Section 303.4 Limitation on Eligible Children

The statute amends the authority for preschool grants in section 619 of the Act to provide that part H does not apply to any child with disabilities who is receiving a free appropriate public education under part B with funds received under section 619. (New section 619(c)(2)(B)(iii) of the Act permits States to do so for children who will reach age three during the school year.) This provision is incorporated in the regulations as a new § 303.4.

Section 303.12 Early Intervention Services

- Paragraph (b)—*Natural environments.* The statute adds a requirement that early intervention services, to the maximum extent appropriate, be provided in natural environments, including the home and community settings in which children without disabilities participate. This requirement would be implemented in § 303.12(b) with the clarification that services must be in natural environments to the maximum extent appropriate to the needs of the child. A definition of the term "natural environments" derived from the legislative history of Public Law 102-119 would be included.

- Paragraph (d)—*Types of services; definitions.* (1) "Assistive technology device." The statute adds to the list of early intervention services in section 672(2)(E) of the Act "assistive technology devices" and "assistive technology services." The definitions of these terms in section 602(a) (25) and

(26) of the Act are implemented in the regulations in § 303.12(d)(1).

(9) "Physical therapy." The definition of this term would be revised to keep pace with advances in the field and, in particular, to reflect the full scope of the practice of physical therapists in a pediatric setting. The proposed revision appears in § 303.12(d)(9).

(15) "Transportation and related costs." The statute adds to the list of early intervention services transportation and related costs necessary to enable a child and the child's family to receive those services. The legislative history of the statute indicates that Congress intended to endorse current regulations on the subject. See H.R. REP. No. 198, 102d Cong., 1st Sess. 13 (1991) and S. REP. No. 84, 102d Cong., 1st Sess. 20 (1991). The term "transportation and related costs" would be incorporated and defined in the regulations in § 303.12(d)(15). The definition of "transportation" in current § 303.23 would be deleted.

(16) "Vision services." The statute adds "vision services" to the list of early intervention services. A definition of this term, developed on the basis of the literature in the field and the views of vision professionals, would be included in the regulations in § 303.12(d)(16).

• Paragraph (e)—*Qualified personnel.* The statute adds "family therapists," "orientation and mobility specialists," and "pediatricians and other physicians" to the list of qualified personnel in section 672(2)(F) of the Act. These terms are incorporated in § 303.12(e).

• *Notes.* Note 1 following § 303.12 of the current regulations would be deleted, and a discussion of where services must be provided would be included in a new Note 1 following § 303.344. Current Note 2 following existing § 303.12 would be revised to reflect the statutory change concerning vision services and to clarify the explanation of the list of qualified personnel in § 303.12(e).

Section 303.16 Infants and Toddlers With Disabilities

The statute amends the definition of "infants and toddlers with disabilities" and other provisions by updating terminology consistent with language used by those working in the early intervention field. The statute refers to "communication development" rather than "language and speech development," "social or emotional development" rather than "psychosocial development," and "adaptive development" rather than "self-help skills." This new terminology would be used in the regulations in § 303.16 and in other sections, notably § 303.12, where the old terminology now appears.

Note 1 following § 303.16, relating to the statutory phrase "a diagnosed physical or mental condition that has a high probability of resulting in developmental delay," would be revised in two significant respects. First, the description of the conditions to which the quoted phrase applies would be updated and clarified. Second, the note would be expanded to make clear that the phrase also applies to a combination of risk factors that, taken together, makes developmental delay highly probable. Note 2 following § 303.16, relating to children "at risk of having substantial developmental delays if early intervention services are not provided" would also be revised. The amended language would make clear that factors that cannot be identified until after the neonatal period may also be considered by States in defining "at risk" infants and toddlers.

Section 303.22 Service Coordination (Case Management)

The statute amends the list of early intervention services and other provisions to refer to "service coordination services" rather than "case management services." This change of terminology is reflected in the regulations in § 303.22 and other sections, notably § 303.12(d)(11), where the old term now appears. In addition, a new Note 2 following § 303.22 would be added to state that the legislative history of the statute indicates the change in terminology was not intended to affect the authority to seek reimbursement for services provided under legislation that refers to "case management" services.

Section 303.23 State

Public Law 102-73 amended the definition of the term "State" in section 602(a)(6) of the Act with respect to the Trust Territory of the Pacific Islands. The amendment is incorporated in § 303.23 to provide that "State" includes Palau until the Compact of Free Association with Palau takes effect.

Section 303.124 Prohibition against supplanting.

In a notice of proposed rulemaking published in the **Federal Register** on December 30, 1991 (56 FR 67420), the Secretary proposed to amend § 303.124. The text of the section appears in this document in its proposed form.

Section 303.128 Traditionally Underserved Groups

The statute adds a new requirement that a State's statement of assurances address the meaningful involvement of traditionally underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of part H and the access of these families to culturally competent services within their local areas. This requirement would be implemented in a new § 303.128.

Section 303.143 Designation Regarding Financial Responsibility

The statute adds a new requirement that a State's application include a designation by the State of an individual or entity responsible for assigning financial responsibility among appropriate agencies. This requirement is incorporated in the regulations in a new § 303.143.

Section 303.148 Transition to Preschool Programs

The statute adds a detailed new requirement that a State's application include a description of the policies and procedures used to ensure a smooth transition for individuals participating in the Part H program who are eligible for participation in preschool programs under Part B of the Act. A new § 303.148 would incorporate this requirement. This section would also require an interagency agreement on transition matters between the lead agency under the Part H program and the State educational agency, which is responsible for administering Part B preschool programs, if these agencies are not the same. Two notes following § 303.148 would provide additional guidance on transition matters. Note 1 identifies several matters that should be considered in developing policies and procedures to ensure a smooth transition. Guidance in current Note 4 following § 303.344 is updated, clarified, and expanded. Note 2 encourages States to facilitate the smooth transition of children who are exiting the Part H program but are not eligible for Part B preschool programs.

Section 303.155 Differential Funding

Public Law 102-52 (enacted June 6, 1991) added a new section 675(e) of the Act governing grants for fiscal years 1990, 1991, and 1992 to eligible entities that are experiencing significant hardships in meeting the eligibility requirements for the fourth or fifth year of participation. Public Law 102-119 amended this "differential funding" authority by providing for a minimum payment for fiscal year 1991 or 1992 for certain entities. The new authority would be incorporated in the regulations

in a new § 303.155 and, with respect to the amount of a grant and the reallotment of funds, a new § 303.205. These regulatory sections would provide that section 675(e) of the Act governs eligibility for a grant, the grant amount, and the allotment of funds notwithstanding any other provision of the regulations.

Section 303.160 Minimum Components of a Statewide System

The statute adds a reference to Indian infants and toddlers with disabilities on reservations to the general requirement for a statewide system of early intervention services. A new § 303.160 would reflect this general requirement and provide that each application must address the minimum components of a statewide system described in §§ 303.161–303.176.

Section 303.180 Payments to the Secretary of the Interior for Indian Tribes and Tribal Organizations

The statute revises provisions governing the use of Part H funds for the benefit of infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The revised statute provides for the Secretary's making payments to the Secretary of the Interior for the coordination of assistance in the provision of early intervention services by the States to these individuals. The Secretary of the Interior must distribute the payments to tribes and tribal organizations, or combinations of those entities, in accordance with section 684(b) of the Act. The revised provisions are incorporated in the regulations in § 303.180, with a conforming amendment in § 303.203. Section 303.180(b) would (1) incorporate the reference to the definition of tribes or tribal organizations (section 4 of the Indian Self-Determination and Education Assistance Act), and (2) make clear that a qualifying tribe or tribal organization is eligible to receive a payment under § 303.180 if the tribe is on a reservation that is served by an elementary or secondary school operated or funded by the Bureau of Indian Affairs. Section 303.180(c) would require that, within 90 days after the end of each fiscal year, the Secretary of the Interior provide the Secretary with a report on the payments distributed under § 303.180, including the names of the entities that received a payment for that fiscal year and the amount and date of each payment.

Section 303.202 Minimum Grant That a State May Receive

The statute sets a new alternative minimum amount of $500,000 for a grant to a State. The alternative amount is incorporated in the regulations in § 303.202.

Section 303.205 Differential Funding Grants

The provisions of section 675(e) of the Act relating to the amount of a differential funding grant and the reallotment of funds in fiscal years 1990, 1991, or 1992 are incorporated in a new § 303.205. See the discussion of the companion provisions of § 303.155 above.

Section 303.300 State Eligibility Criteria and Procedures

This section of the regulations would be retitled and expanded to require that a statewide system of early intervention services include the eligibility criteria and procedures that will be used by the State in carrying out Part H programs. The structure of this section would parallel that of § 303.16, where the term "infants and toddlers with disabilities" is defined, and the eligibility criteria and procedures would be required to be consistent with that section. Criteria and procedures would be required for children experiencing developmental delays under § 303.16(a)(1), children with a condition that has a high probability of resulting in developmental delay under § 303.16(a)(2), and, if applicable, children who are at risk under § 303.16(b). In addition to clarifying the types of criteria and procedures that a State must develop, this section would add requirements that a State's basis for eligibility determinations under §§ 303.16(a)(2) and (b) be included in its statewide system.

Section 303.302 Timetables for Serving Eligible Children

Because the statute provides that Part H does not apply to children with disabilities receiving a free appropriate public education with funds received under section 619 of the Act for preschool programs (see the discussion of § 303.4 above), § 303.302 would be amended to provide an exception for those children. Conforming changes would be made in the titles of §§ 303.302 and 303.163. In addition, § 303.302 incorporates a new statutory reference to Indian infants and toddlers with disabilities on reservations. A new note following this section explains that amendments made by the statute extend the State's duty to make services available to Indian children on reservations with BIA schools and that the State's obligation under prior law to make services available to other Indian children remains.

Section 303.321 Comprehensive Child Find System

Paragraph (c) of this section would be expanded to require that the lead agency ensure that the Part H child find system is coordinated with tribes and tribal organizations that receive payments under § 303.180 and other tribes and tribal organizations as appropriate. Paragraph (e) of this section would be revised to require that a public agency appoint a service coordinator as soon as possible after a child is referred to the agency. The Secretary believes the assistance of a service coordinator is particularly important during the evaluation and assessment that follows the referral.

Section 303.322 Evaluation and Assessment

The statute amends the requirements relating to assessments of children and their families by (1) requiring an assessment of the child's strengths as well as needs, and (2) requiring a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of their child. These amendments would be implemented in a revised definition of "assessment" in § 303.322(b)(2) and a requirement that family assessments, which are described in § 303.322(d), be family-directed. Conforming changes would be made in the note following § 303.322.

Section 303.340 General

The general regulatory provisions relating to individualized family service plans (IFSPs) in this section would be simplified through the use of cross-references to other sections that contain the substantive requirements relating to IFSPs.

Section 303.342 Procedures for IFSP Development, Review, and Evaluation

The statute adds a requirement that the contents of the IFSP be fully explained to the parents and informed written consent from the parents be obtained prior to the provision of early intervention services described in the plan. The statute also provides that if the parents do not provide consent with respect to a particular early intervention service, the services to which consent is

obtained must be provided. These provisions would be implemented in the regulations in § 303.342(e) with the clarification that services to which consent is not obtained may not be provided.

Section 303.344 Content of an IFSP

• Paragraph (d)—*Early intervention services.* The statute adds a requirement that an IFSP contain a statement of the natural environments in which early intervention services will appropriately be provided. This requirement would be incorporated in the regulations in § 303.344(d)(1)(ii) with a cross-reference to the "natural environments" provisions in § 303.12(b). The regulatory requirement that the IFSP include the location of the services would be retained, and a new definition of "location" would be added in § 303.344(d)(3).

• Paragraph (e)—*Other services.* This paragraph requires that, to the extent appropriate, an IFSP contain medical and other services needed by the child but not required by Part H. The paragraph would be amended to make clear that the funding sources to be used in paying for those services must also be included in the IFSP. See the note following § 303.13, quoted with approval in the legislative history of the statute. H.R. REP. NO. 198, 102d Cong., 1st Sess. 13–14 (1991); S. REP. NO. 84, 102d Cong., 1st Sess. 21 (1991).

• Paragraph (f)—*Dates; duration of services.* This paragraph would be revised to provide that the IFSP must include dates for the initiation of services as soon as possible after IFSP meetings. The purpose of this proposed revision is to ensure that there is no unnecessary delay between the development and the implementation of the service plan in the IFSP.

• Paragraph (g)—*Service coordinator.* The statute adds alternative qualifications for the service coordinator who must be named in the IFSP—that the coordinator, if not from the profession most immediately relevant to the child's or family's needs, is otherwise qualified to carry out all applicable responsibilities under the Part H program. This alternative is incorporated in the regulations in § 303.344(g).

• Paragraph (h)—*Transition at age three.* A cross-reference to new § 303.148—*Transition to preschool programs*—would be added to this paragraph to ensure that the requirements of that section are observed in the development of IFSPs.

• *Notes.* The notes following § 303.344 would be revised in two respects. First, a new Note 1 would be added to provide guidance on the requirements of paragraph (d) of this section concerning where early intervention services must be provided. The note would update the discussion in Note 1 following § 303.12 of the current regulations to take account of the new requirements relating to natural environments. Second, guidance in Note 4 following current § 303.344, which relates to the transition of children to preschool programs, would be revised and relocated after new § 303.148. See the discussion of that section above.

Section 303.360 Comprehensive System of Personnel Development

The statute amends the provisions governing a comprehensive system of personnel development (CSPD) that must be included in a statewide system of early intervention services. By statute, the CSPD must include the training of paraprofessionals as well as primary referral sources respecting the basic components of early intervention services available in the State, and the CSPD must be consistent with that required under Part B of the Act. In addition to required elements, the statute recites several elements that may be included in the CSPD. These new statutory provisions would be implemented in § 303.360. This section would be restructured to state the required elements of the CSPD in paragraph (b) and the discretionary elements in paragraph (c).

Section 303.404 Parent Consent

Statutory amendments relating to parental consent to the provision of early intervention services would be implemented in § 303.342(e). See the discussion of that section above. Pursuant to those amendments, § 303.404 would be revised to require written parental consent before initiating the provision of early intervention services at any time, rather than only at the time the initial IFSP is developed.

Section 303.405 Parent Right to Decline Service

The statute adds to the procedural safeguards required to be included in a statewide system the right of the parents of a child to determine whether they, their child, or other family members will accept or decline any Part H early intervention service in accordance with State law without jeopardizing other Part H services. This right is incorporated in the regulations in a new § 303.405.

Section 303.420 Administrative Resolution of Individual Child Complaints by an Impartial Decision-Maker

Paragraph (a) of this section permits a State to adopt the due process procedures described in the cited regulations under Part B of the Act for the purpose of resolving individual child complaints under the Part H program. This paragraph would be revised to require that, if a State chooses this approach, its procedures meet the requirements of § 303.425, which relates to the status of the child during proceedings. In addition, Note 1 following this section would be revised to clarify (1) that the standard for an impartial decision-maker is found in § 303.421(b), and (2) that a dispute may concern any of the matters in § 303.403(a).

Section 303.460 Confidentiality of Information

The statute amends procedural safeguard requirements to provide for the right of parents to written notice of, and written consent to, the exchange of personally identifiable information among agencies consistent with Federal and State law. This right is incorporated in the regulations in a revised § 303.460(a). A conforming cross-reference to this provision would be added to Note 1 following § 303.404, which identifies the location of other consent requirements in the regulations.

Section 303.501 Supervision and Monitoring of Programs

The statute revises the required responsibilities of the lead agency to include monitoring programs and activities used by the State to carry out Part H, whether or not those programs and activities are receiving Part H assistance, to ensure that the State complies with Part H. This amendment would be implemented in a revised § 303.501(a) and (b)(1).

Section 303.510 Adopting Complaint Procedures

On August 19, 1991, the Secretary published a notice of proposed rulemaking at 56 FR 41266 proposing to incorporate State complaint procedures currently located in 34 CFR part 76 in regulations under Part B of the Act. To provide for similar procedures under Part H, the Secretary proposes to amend § 303.510 to reflect the procedures described in § 300.660 of the August 19, 1991 proposed rule.

Section 303.512 Minimum State Complaint Procedures

This section would be revised to provide for minimum procedures that parallel those in § 300.661 of the August 19, 1991 proposed rule discussed above. A conforming amendment to § 303.5 would make the procedures in 34 CFR part 76 inapplicable to the part H program. The Secretary particularly invites public comment from States, parents, and other interested individuals on the need for the modified procedures in §§ 303.510 and 303.512 and the burdens that would be imposed by their adoption.

Section 303.520 Policies Related to Payment of Services

Paragraph (b) of this section would be revised to include provisions requiring that a State's policies set out (1) the fees that will be charged for early intervention services and the basis for those fees (a provision located in § 303.19 of the current regulations), or (2) if no fees will be charged for those services, an explanation of the State's determination not to charge fees, including a description of any analysis undertaken by the State in conjunction with this determination. Under current § 303.173(a), a State's application is required to include information on funding policies; therefore, no change would be made to that paragraph.

The Secretary proposes to add the second requirement referred to above to encourage States to establish sliding fee scales for direct services based on a family's ability to pay. It is the Secretary's view that cost sharing by families based on their ability to pay will help ensure that there are sufficient funds available to meet the early intervention needs of infants and toddlers with disabilities whose families are least able to pay. The Secretary is particularly interested in comments regarding whether an analysis relating to the use of sliding fee scales should be required and, if so, whether the minimum elements that must be included in such an analysis should be specified. These might include the costs of services, revenues for providing services, potential family contribution, the costs of administering a sliding fee scale program, and other elements suggested by commenters.

Section 303.523 Interagency Agreements

The statute amends the responsibility of the lead agency to take account of a companion amendment relating to an individual or entity designated to assign financial responsibility among appropriate agencies. See the discussion of § 303.143 above. The lead agency must carry out its responsibility in this area in accordance with the companion provision. This amendment would be implemented through a cross-reference to § 303.143 in § 303.523(b).

Section 303.524 Resolution of Disputes

This section would be revised to reflect the statutory amendments relating to the assignment of financial responsibility among appropriate agencies. See the discussions of §§ 303.143 and 303.523 above.

Section 303.600 Establishment of Council

The statute amends the provisions governing State Interagency Coordinating Councils in several respects. The amendments relating to the establishment of a Council are incorporated in a revised § 303.600. Conforming changes would be made in the note following this section.

Section 303.601 Composition

The statutory amendments to the required composition of the Council are incorporated in the regulations in a revised § 303.601. The note following this section would be deleted as obsolete.

Section 303.602 Use of Funds by the Council

The statute revises the permissible uses of funds by the Council to include the conduct of hearings and forums, reasonable and necessary child care expenses for parent representatives attending Council meetings and performing Council duties, and matters provided for in current regulations. These revisions would be implemented in a revised § 303.602.

Section 303.650 General

The statute adds to the functions of the Council authority to advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children aged birth to five, inclusive. This authority is incorporated in a new paragraph (b) of a restructured § 303.650.

Section 303.653 Transitional Services

The statute adds a requirement that the Council advise and assist the State educational agency regarding the transition of toddlers with disabilities to services provided under Part B of the Act, to the extent those services are appropriate. This requirement is incorporated in the regulations in a new § 303.653.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The proposed regulations would affect only States and State agencies, and therefore would not have an impact on small entities. State and State agencies are not defined as "small entities" in the Regulatory Flexibility Act. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

The following sections contain information collection requirements: §§ 303.121–303.128, §§ 303.141–303.155, §§ 303.161–303.176, § 303.180, §§ 303.300–303.302, §§ 303.320–303.323, §§ 303.340–303.346, §§ 303.360–303.361, §§ 303.420–303.425, § 303.460, §§ 303.500–303.501, §§ 303.510–303.512, §§ 303.520–303.528, § 303.540, §§ 303.600–303.604, §§ 303.650–303.654, and § 303.670. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h)).

States are eligible to apply for grants under these regulations. The Department needs and uses the information to make grants. Annual public reporting burden for this collection of information is estimated to average 15 hours per response for 57 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened

federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 4609, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 303

Education, Education of individuals with disabilities, Programs—Education, Medical personnel, State educational agencies.

(Catalog of Federal Domestic Assistance Number: 84.181, Early Intervention Programs for Infants and Toddlers with Disabilities)

Dated: December 31, 1991.

Lamar Alexander,

Secretary of Education.

The Secretary proposes to amend title 34 of the Code of Federal Regulations by revising part 303 to read as follows:

PART 303—EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES

Subpart A—General

Purpose, Eligibility, and Other General Provisions

Definitions

Subpart B—State Application for a Grant

General Requirements

Public Participation

Statement of Assurances

General Requirements for a State Application

Specific Application Requirements for Years One Through Five and Thereafter

Components of a Statewide System—Application Requirements for Years Four, Five, and Thereafter

Participation by the Secretary of the Interior

Subpart C—Procedures for Making Grants to States

Subpart D—Program and Service Components of a Statewide System of Early Intervention Services

General

Identification and Evaluation

Individualized Family Service Plans (IFSPs)

Authority: 20 U.S.C. 1471–1485, unless otherwise noted.

Subpart A—General

Purpose, Eligibility, and Other General Provisions

§ 303.1 Purpose of the early intervention program for infants and toddlers with disabilities.

The purpose of this part is to provide financial assistance to States to—

(a) Develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for infants and toddlers with disabilities and their families;

(b) Facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

(c) Enhance the States' capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

(d) Enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

(Authority: 20 U.S.C. 1471)

§ 303.2 Eligible recipients of an award.

Eligible recipients include the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, the Secretary of the Interior, and the following jurisdictions: Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Pub. L. 99–658).

(Authority: 20 U.S.C. 1401(a)(6), 1484)

§ 303.3 Activities that may be supported under this part.

Funds under this part may be used for the following activities:

(a) To plan, develop, and implement a statewide system of early intervention services for children eligible under this part and their families.

(b) For direct services for eligible children and their families that are not otherwise provided from other public or private sources.

(c) To expand and improve on services for eligible children and their families that are otherwise available, consistent with § 303.527.

(d) To provide a free appropriate public education, in accordance with Part B of the Act, to children with disabilities from their third birthday to the beginning of the following school year.

(Authority: 20 U.S.C. 1473, 1479)

§ 303.4 Limitation on eligible children.

This part 303 does not apply to any child with disabilities receiving a free appropriate public education, in accordance with 34 CFR part 300, with funds received under 34 CFR part 301.

(Authority: 20 U.S.C. 1419(g))

§ 303.5 Applicable regulations.

(a) The following regulations apply to this part:

(1) The Education Department General Administrative Regulations (EDGAR), including—

(i) Part 76 (State Administered Programs), except for § 76.103 and §§ 76.780 through 76.782;

(ii) Part 77 (Definitions that Apply to Department Regulations);

(iii) Part 79 (Intergovernmental Review of Department of Education Programs and Activities);

(iv) Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments);

(v) Part 81 (Grants and Cooperative Agreements under the General Education Provisions Act—Enforcement);

(vi) Part 82 (New Restrictions on Lobbying);

(vii) Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Work Place (Grants)); and

(viii) Part 86 (Drug-Free Schools and Campuses).

(2) The regulations in this part 303.

(3) The following regulations in 34 CFR part 300 (Assistance to States for

Children with Disabilities Program): §§ 300.560 through 300.576, and §§ 300.581 through 300.586.

(b) In applying the regulations cited in paragraphs (a)(1) and (a)(3) of this section, any reference to—

(1) *State educational agency* means the lead agency under this part; and

(2) *Special education, related services, free public education,* or *education* means "early intervention services" under this part.

(Authority: 20 U.S.C. 1401–1418, 1420, 1483)

Definitions

Note: Sections 303.6–303.24 include definitions that are used throughout these regulations. Other terms are defined in the specific subparts in which they are used. Below is a list of those terms and the specific sections in which they are defined:

Appropriate professional requirements in the State (§ 303.361(a)(1))
Assessment (§ 303.322(b)(2))
Consent (§ 303.401(a))
Evaluation (§ 303.322(b)(1))
Frequency and intensity (§ 303.344(d)(2)(i))
Highest requirements in the State applicable to a profession or discipline (§ 303.361)(a)(2))
Individualized family service plan and IFSP (§ 303.340(b))
Impartial (§ 303.421(b))
Location (§ 303.344(d)(3))
Method (§ 303.344(d)(2)(ii))
Native language (§ 303.401(b))
Natural environments (§ 303.12(b)(2))
Personally identifiable (§ 303.401(c))
Primary referral sources (§ 303.321(d)(3))
Profession or discipline (§ 303.361(a)(3))
Special definition of "aggregate amount" (§ 303.200(b)(1))
Special definition of "infants and toddlers" (§ 303.200(b)(2))
Special definition of "State" (§ 303.200(b)(3))
State approved or recognized certification, licensing, registration, or other comparable requirements (§ 303.361(a)(4))

§ 303.6 Act.

As used in this part, *Act* means the Individuals with Disabilities Education Act.

(Authority: 20 U.S.C. 1400)

§ 303.7 Children.

As used in this part, *children* means "infants and toddlers with disabilities" as that term is defined in § 303.16.

(Authority: 20 U.S.C. 1472(1))

§ 303.8 Council.

As used in this part, *Council* means the State Interagency Coordinating Council.

(Authority: 20 U.S.C. 1472(4))

§ 303.9 Days.

As used in this part, *days* means calendar days.

(Authority: 20 U.S.C. 1471–1485)

§ 303.10 Developmental delay.

As used in this part, *developmental delay* has the meaning given to that term by a State under § 303.300.

(Authority: 20 U.S.C. 1472(3))

§ 303.11 Early intervention program.

As used in this part, *early intervention program* means the total effort in a State that is directed at meeting the needs of children eligible under this part and their families.

(Authority: 20 U.S.C. 1471–1485)

§ 303.12 Early intervention services.

(a) *General.* As used in this part, *early intervention services* means services that—

(1) Are designed to meet the developmental needs of each child eligible under this part and the needs of the family related to enhancing the child's development;

(2) Are selected in collaboration with the parents;

(3) Are provided—

(i) Under public supervision;

(ii) By "qualified" personnel, as defined in § 303.21, including the types of personnel listed in paragraph (e) of this section.

(iii) In conformity with an individualized family service plan; and

(iv) At no cost, unless, subject to § 303.520(b) (3), Federal or State law provides a system of payments by families, including a schedule of sliding fees; and

(4) Meet the standards of the State, including the requirements of this part.

(b) *Natural environments.* (1) To the maximum extent appropriate to the needs of the child, early intervention services must be provided in natural environments, including the home and community settings in which children without disabilities participate.

(2) As used in paragraph (b)(1) of this section, *natural environments* means settings that are natural or normal for the child's age peers who have no disability.

(c) *General role of service providers.* To the extent appropriate, service providers in each area of early intervention services included in paragraph (d) of this section are responsible for—

(1) Consulting with parents, other service providers, and representatives of appropriate community agencies to ensure the effective provision of services in that area;

(2) Training parents and others regarding the provision of those services; and

(3) Participating in the multidisciplinary team's assessment of a child and the child's family, and in the development of integrated goals and outcomes for the individualized family service plan.

(d) *Types of services; definitions.* Following are types of services included under "early intervention services," and, if appropriate, definitions of those services:

(1) *Assistive technology device* means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities. *Assistive technology service* means a service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include—

(i) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(ii) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(iii) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(iv) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(v) Training or technical assistance for a child with disabilities or, if appropriate, that child's family; and

(vi) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(2) *Audiology* includes—

(i) Identification of children with auditory impairment, using at risk criteria and appropriate audiologic screening techniques;

(ii) Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;

(iii) Referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment;

(iv) Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;

(v) Provision of services for prevention of hearing loss; and

(vi) Determination of the child's need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

(3) *Family training, counseling, and home visits* means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of a child eligible under this part in understanding the special needs of the child and enhancing the child's development.

(4) *Health services* (See § 303.13).

(5) *Medical services only for diagnostic or evaluation purposes* means services provided by a licensed physician to determine a child's developmental status and need for early intervention services.

(6) *Nursing services* includes—

(i) The assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;

(ii) Provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and

(iii) Administration of medications, treatments, and regimens prescribed by a licensed physician.

(7) *Nutrition services* includes—

(i) Conducting individual assessments in—

(A) Nutritional history and dietary intake;

(B) Anthropometric, biochemical, and clinical variables;

(C) Feeding skills and feeding problems; and

(D) Food habits and food preferences;

(ii) Developing and monitoring appropriate plans to address the nutritional needs of children eligible under this part, based on the findings in paragraph (d)(7)(i) of this section; and

(iii) Making referrals to appropriate community resources to carry out nutrition goals.

(8) *Occupational therapy* includes services to address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include—

(i) Identification, assessment, and intervention;

(ii) Adaptation of the environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and

(iii) Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

(9) *Physical therapy* includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include—

(i) Screening, evaluation, and assessment of infants and toddlers to identify movement dysfunction;

(ii) Obtaining, interpreting, and integrating information appropriate to program planning to prevent or alleviate movement dysfunction and related functional problems; and

(iii) Providing individual and group services to prevent or alleviate movement dysfunction and related functional problems.

(10) *Psychological services* includes—

(i) Administering psychological and developmental tests and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior, and child and family conditions related to learning, mental health, and development; and

(iv) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

(11) *Service coordination services* means assistance and services provided by a service coordinator to a child eligible under this part and the child's family that are in addition to the functions and activities included under § 303.22.

(12) *Social work services* includes—

(i) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;

(ii) Preparing a social or emotional developmental assessment of the child within the family context;

(iii) Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the child and parents;

(iv) Working with those problems in a child's and family's living situation (home, community, and any center where early intervention services are provided) that affect the child's maximum utilization of early intervention services; and

(v) Identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.

(13) *Special instruction* includes—

(i) The design of learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;

(ii) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the child's individualized family service plan;

(iii) Providing families with information, skills, and support related to enhancing the skill development of the child; and

(iv) Working with the child to enhance the child's development.

(14) *Speech-language pathology* includes—

(i) Identification of children with communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;

(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills; and

(iii) Provision of services for the habilitation, rehabilitation, or prevention of communicative or oropharyngeal disorders and delays in development of communication skills.

(15) *Transportation and related costs* includes the cost of travel (e.g., mileage, or travel by taxi, common carrier, or other means) and other costs (e.g., tolls and parking expenses) that are necessary to enable a child eligible under this part and the child's family to receive early intervention services.

(16) *Vision services* means—

(i) Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;

(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and

(iii) Communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities.

(e) *Qualified personnel.* Early intervention services must be provided by qualified personnel, including—

(1) Audiologists;

(2) Family therapists;
(3) Nurses;
(4) Nutritionists;
(5) Occupational therapists;
(6) Orientation and mobility specialists;
(7) Pediatricians and other physicians;
(8) Physical therapists;
(9) Psychologists;
(10) Social workers;
(11) Special educators; and
(12) Speech and language pathologists.

(Authority: 20 U.S.C. 1401(a)(25), and (a)(26), 1472(2); H.R. REP. NO. 198, 102d Cong., 1st Sess. 14 (1991); S. REP. NO. 84, 102d Cong., 1st Sess. 21–22 (1991))

Note: The lists of services in paragraph (d) and qualified personnel in paragraph (e) of this section are not exhaustive. Early intervention services may include such services as the provision of respite and other family support services. Qualified personnel may include such personnel as vision specialists, paraprofessionals, and parent-to-parent support personnel.

§ 303.13 Health services.

(a) As used in this part, *health services* means services necessary to enable a child to benefit from the other early intervention services under this part during the time that the child is receiving the other early intervention services.

(b) The term includes—

(1) Such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

(2) Consultation by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services.

(c) The term does not include the following:

(1) Services that are—

(i) Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus); or

(ii) Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose).

(2) Devices necessary to control or treat a medical condition.

(3) Medical-health services (such as immunizations and regular "well-baby" care) that are routinely recommended for all children.

(Authority: 20 U.S.C. 1472(2))

Note: The definition in this section distinguishes between the health services that are required under this part and the medical-health services that are not required. The IFSP requirements in subpart D provide that, to the extent appropriate, these other medical-health services are to be included in the IFSP, along with the funding sources to be used in paying for the services. Identifying these services in the IFSP does not impose an obligation to provide the services if they are otherwise not required to be provided under this part. (See § 303.344(e) and the note 3 following that section.)

§ 303.14 IFSP.

As used in this part, *IFSP* means the individualized family service plan, as that term is defined in § 303.340(b).

(Authority: 20 U.S.C. 1477)

§ 303.15 Include; including.

As used in this part, *include* or *including* means that the items named are not all of the possible items that are covered whether like or unlike the ones named.

(Authority: 20 U.S.C. 1471–1485)

§ 303.16 Infants and toddlers with disabilities.

(a) As used in this part, *infants and toddlers with disabilities* means individuals from birth through age two who need early intervention services because they—

(1) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

(i) Cognitive development.

(ii) Physical development, including vision and hearing.

(iii) Communication development.

(iv) Social or emotional development.

(v) Adaptive development; or

(2) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(b) The term may also include, at a State's discretion, children from birth through age two who are at risk of having substantial developmental delays if early intervention services are not provided.

(Authority: 20 U.S.C. 1472(1))

Note 1: The phrase "a diagnosed physical or mental condition that has a high probability of resulting in developmental delay," as used in paragraph (a)(2) of this section, applies to a condition if it typically results in developmental delay. Examples of these conditions include chromosomal abnormalities; genetic or congenital disorders; severe sensory impairments, including hearing and vision; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; disorders secondary to exposure to toxic substances, including fetal alcohol syndrome; and severe attachment disorders.

In addition, the phrase quoted above applies to a combination of risk factors that, taken together, makes developmental delay highly probable. Examples of these factors include low birth weight, small for gestational age, neonatal sepsis, necrotizing enterocolitis, and maternal substance abuse.

Note 2: With respect to paragraph (b) of this section, children who are at risk may be eligible under this part if a State elects to extend services to that population, even though they have not been identified as disabled.

Under this provision, States have the authority to define who would be "at risk of having substantial developmental delays if early intervention services are not provided." In defining the "at risk" population, States may include well-known biological and other factors that can be identified and that place infants and toddlers "at risk" for developmental delay. Commonly cited factors include low birth weight, respiratory distress as a newborn, lack of oxygen, brain hemorrhage, and infection. It should be noted that "at risk" factors do not predict the presence of a barrier to development, but they may indicate children who are at higher risk of developmental delay than children without these problems.

§ 303.17 Multidisciplinary.

As used in this part, *multidisciplinary* means the involvement of two or more disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities in § 303.322 and development of the IFSP in § 303.342.

(Authority: 20 U.S.C. 1476(b)(3), 1477(a))

§ 303.18 Parent.

As used in this part, *parent* means a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with § 303.406. The term does not include the State if the child is a ward of the State.

(Authority: 20 U.S.C. 1477)

Note: The term *parent* has been defined to include persons acting in the place of a parent, such as a grandparent or stepparent with whom a child lives, as well as persons who are legally responsible for the child's welfare. The definition in this section is identical to the definition used in the regulations under Part B of the Act (34 CFR 300.13).

§ 303.19 Policies.

(a) As used in this part, *policies* means State statutes, regulations, Governor's orders, directives by the lead agency, or other written documents that represent the State's position concerning any matter covered under this part.

(b) State policies include—

(1) A State's commitment to develop and implement the statewide system (see § 303.150);

(2) A State's eligibility criteria and procedures (see § 303.300);

(3) A statement that, consistent with § 303.520(b), provides that services under this part will be provided at no

cost to parents, except where a system of payments is provided for under Federal or State law.

(4) A State's standards for personnel who provide services to children eligible under this part (see § 303.361);

(5) A State's position and procedures related to contracting or making other arrangements with service providers under subpart F of this part; and

(6) Other positions that the State has adopted related to implementing any of the other requirements under this part.

(Authority: 20 U.S.C. 1471–1485)

§ 303.20 Public agency.

As used in this part, *public agency* includes the lead agency and any other political subdivision of the State that is responsible for providing early intervention services to children eligible under this part and their families.

(Authority: 20 U.S.C. 1471–1485)

§ 303.21 Qualified.

As used in this part, *qualified* means that a person has met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the person is providing early intervention services.

(Authority: 20 U.S.C. 1472(2))

Note: These regulations contain the following provisions relating to a State's responsibility to ensure that personnel are qualified to provide early intervention services:

1. Section 303.12(a)(4) provides that early intervention services must meet State standards. This provision implements a requirement that is similar to a longstanding provision under Part B of the Act (i.e., that the State educational agency establish standards and ensure that those standards are currently met for all programs providing special education and related services).

2. Section 303.12(a)(3)(ii) provides that early intervention services must be provided by qualified personnel.

3. Section 303.361(b) requires statewide systems to have policies and procedures relating to personnel standards.

§ 303.22 Service coordination (case management).

(a) *General.* (1) As used in this part, except in § 303.12(d)(11), *service coordination* means the activities carried out by a service coordinator to assist and enable a child eligible under this part and the child's family to receive the rights, procedural safeguards, and services that are authorized to be provided under the State's early intervention program.

(2) Each child eligible under this part and the child's family must be provided with one service coordinator who is responsible for—

(i) Coordinating all services across agency lines; and

(ii) Serving as the single point of contact in helping parents to obtain the services and assistance they need.

(3) Service coordination is an active, ongoing process that involves—

(i) Assisting parents of eligible children in gaining access to the early intervention services and other services identified in the individualized family service plan;

(ii) Coordinating the provision of early intervention services and other services (such as medical services for other than diagnostic and evaluation purposes) that the child needs or is being provided;

(iii) Facilitating the timely delivery of available services; and

(iv) Continuously seeking the appropriate services and situations necessary to benefit the development of each child being served for the duration of the child's eligibility.

(b) *Specific service coordination activities.* Service coordination activities include—

(1) Coordinating the performance of evaluations and assessments;

(2) Facilitating and participating in the development, review, and evaluation of individualized family service plans;

(3) Assisting families in identifying available service providers;

(4) Coordinating and monitoring the delivery of available services;

(5) Informing families of the availability of advocacy services;

(6) Coordinating with medical and health providers; and

(7) Facilitating the development of a transition plan to preschool services, if appropriate.

(c) *Employment and assignment of service coordinators.* (1) Service coordinators may be employed or assigned in any way that is permitted under State law, so long as it is consistent with the requirements of this part.

(2) A State's policies and procedures for implementing the statewide system of early intervention services must be designed and implemented to ensure that service coordinators are able to effectively carry out on an interagency basis the functions and services listed under paragraphs (a) and (b) of this section.

(d) *Qualifications of service coordinators.* Service coordinators must be persons who, consistent with § 303.344(g), have demonstrated knowledge and understanding about—

(1) Infants and toddlers who are eligible under this part;

(2) Part H of the Act and the regulations in this part; and

(3) The nature and scope of services available under the State's early intervention program, the system of payments for services in the State, and other pertinent information.

(Authority: 20 U.S.C. 1472(2))

Note 1: If States have existing service coordination systems, the States may use or adapt those systems, so long as they are consistent with the requirements of this part.

Note 2: The legislative history of the 1991 amendments to the Act indicates that the use of the term "service coordination" was not intended to affect the authority to seek reimbursement for services provided under Medicaid or any other legislation that makes reference to "case management" services. See H.R. REP. NO. 198, 102d Cong., 1st Sess. 12 (1991); S. REP. NO. 84, 102d Cong., 1st Sess. 20 (1991).

§ 303.23 State.

Except as provided in §303.200(b)(3), *State* means each of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, and the jurisdictions of Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Pub. L. 99–658).

(Authority: 20 U.S.C. 1401(a)(6))

§ 303.24 EDGAR definitions that apply.

The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Award
Contract
Department
EDGAR
Fiscal year
Grant
Grantee
Grant period
Private
Public
Secretary

(Authority: 20 U.S.C. 1471–1485)

Subpart B—State Application for a Grant

General Requirements

§ 303.100 Conditions of assistance.

(a) In order to receive funds under this part for any fiscal year, a State must—

(1) Have an approved application that contains the information required in this subpart for the year in which the State is applying; and

(2) Have on file with the Secretary the statement of assurances required under §§ 303.120 through 303.128.

(b) For years one through five, a State shall submit an annual application.

Thereafter, a State may submit a three-year application.

(Authority: 20 U.S.C. 1478)

§ 303.101 How the Secretary disapproves a State's application or statement of assurances.

The Secretary follows the procedures in 34 CFR 300.581 through 300.586 before disapproving a State's application or statement of assurances submitted under this part.

(Authority: 20 U.S.C. 1478)

Public Participation

§ 303.110 General requirements and timelines for public participation.

(a) Before submitting to the Secretary its application under this part, and before adopting a new or revised policy that is not in its current application, a State shall—

(1) Publish the application or policy in a manner that will ensure circulation throughout the State for at least a 60-day period, with an opportunity for comment on the application or policy for at least 30 days during that period;

(2) Hold public hearings on the application or policy during the 60-day period required in paragraph (a)(1) of this section; and

(3) Provide adequate notice of the hearings required in paragraph (a)(2) of this section at least 30 days before the dates that the hearings are conducted.

(b) A State may request the Secretary to waive compliance with the timelines in paragraph (a) of this section. The Secretary grants the request if the State demonstrates that—

(1) There are circumstances that would warrant such an exception; and

(2) The timelines that will be followed provide an adequate opportunity for public participation and comment.

(Authority: 20 U.S.C. 1478(a)(4))

§ 303.111 Notice of public hearings and opportunity to comment.

The notice required in §303.110(a)(3) must—

(a) Be published in newspapers or announced in other media, or both, with coverage adequate to notify the general public throughout the State about the hearings and opportunity to comment on the application or policy; and

(b) Be in sufficient detail to inform the public about—

(1) The purpose and scope of the State application or policy, and its relationship to part H of the Act;

(2) The length of the comment period and the date, time, and location of each hearing; and

(3) The procedures for providing oral comments or submitting written comments.

(Authority: 20 U.S.C. 1478(a)(4)(A))

§ 303.112 Public hearings.

Each State shall hold public hearings in a sufficient number and at times and places that afford interested parties throughout the State a reasonable opportunity to participate.

(Authority: 20 U.S.C. 1478(a)(4))

§ 303.113 Reviewing and reporting on public comments received.

(a) *Review of comments.* Before adopting its application, and before the adoption of a new or revised policy not in the application, the lead agency shall—

(1) Review and consider all public comments; and

(2) Make any modifications it deems necessary in the application or policy.

(b) *Reporting on comments to the Secretary.* In submitting the State's application or policy to the Secretary, the lead agency shall include—

(1) A summary of the public comments received as a result of the activities required in §§ 303.110 through 303.112;

(2) The State's responses to those comments; and

(3) Copies of news releases, advertisements, and announcements used to provide notice.

(Authority: 20 U.S.C. 1478(a))

Statement of Assurances

§ 303.120 General.

(a) A State's statement of assurances must contain the information required in §§ 303.121 through 303.128.

(b) Unless otherwise required by the Secretary, the statement is submitted only once, and remains in effect throughout the term of a State's participation under this part.

(c) A State may submit a revised statement of assurances if the statement is consistent with the requirements in §§ 303.121 through 303.128.

(Authority: 20 U.S.C. 1478(b))

§ 303.121 Reports and records.

The statement must provide for—

(a) Making reports in such form and containing such information as the Secretary may require; and

(b) Keeping such records and affording such access to those records as the Secretary may find necessary to assure compliance with the requirements of this part, the correctness and verification of reports, and the proper disbursement of funds provided under this part.

(Authority: 20 U.S.C. 1478(b)(4))

§ 303.122 Control of funds and property.

The statement must provide assurance satisfactory to the Secretary that—

(a) The control of funds provided under this part, and title to property acquired with those funds, will be in a public agency for the uses and purposes provided in this part; and

(b) A public agency will administer the funds and property.

(Authority: 20 U.S.C. 1478(b)(3))

§ 303.123 Prohibition against commingling.

The statement must include an assurance satisfactory to the Secretary that funds made available under this part will not be commingled with State funds.

(Authority: 20 U.S.C. 1478(b)(5)(A))

Note: As used in this part, *commingle* means depositing or recording funds in a general account without the ability to identify each specific source of funds for any expenditure. Under that general definition, it is clear that commingling is prohibited. However, to the extent that the funds from each of a series of Federal, State, local, and private funding sources can be identified—with a clear audit trail for each source—it is appropriate for those funds to be consolidated for carrying out a common purpose. In fact, a State may find it essential to set out a funding plan that incorporates, and accounts for, all sources of funds that can be targeted on a given activity or function related to the State's early intervention program.

Thus, the assurance in this section is satisfied by the use of an accounting system that includes an "audit trail" of the expenditure of funds awarded under this part. Separate bank accounts are not required.

§ 303.124 Prohibition against supplanting.

(a) The statement must include an assurance satisfactory to the Secretary that Federal funds made available under this part will be used to supplement and increase the level of State and local funds expended for children eligible under this part and their families and in no case to supplant those State and local funds.

(b) To meet the requirement in paragraph (a) of this section, the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this part and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for—

(1) Decreases in the number of children who are eligible to receive early intervention services under this part; and

(2) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.

(Authority: 20 U.S.C. 1478(b)(5)(B))

§ 303.125 Fiscal control.

The statement must provide assurance satisfactory to the Secretary that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part.

(Authority: 20 U.S.C. 1478(b)(6))

§ 303.126 Payor of last resort.

The statement must include an assurance satisfactory to the Secretary that the State will comply with the provisions in § 303.527, including the requirements on—

(a) Nonsubstitution of funds; and

(b) Non-reduction of other benefits.

(Authority: 20 U.S.C. 1478(b)(2))

§ 303.127 Assurance regarding expenditure of funds.

The statement must include an assurance satisfactory to the Secretary that the funds paid to the State under this part will be expended in accordance with the provisions of this part, including the requirements in § 303.3.

(Authority: 20 U.S.C. 1478(b)(1))

§ 303.128 Traditionally underserved groups.

The statement must include an assurance satisfactory to the Secretary that policies and practices have been adopted to ensure—

(a) That traditionally underserved groups, including minority, low-income, and rural families, are meaningfully involved in the planning and implementation of all the requirements of this part; and

(b) That these families have access to culturally competent services within their local geographical areas.

(Authority: 20 U.S.C. 1478(b)(7))

General Requirements for a State Application

§ 303.140 General.

A State's application under this part must contain the information required in §§ 303.141 through 303.148.

(Authority: 20 U.S.C. 1478(a))

§ 303.141 Information about the Council.

Each application must include information demonstrating that the State has established a State Interagency Coordinating Council that meets the requirements of subpart G of this part.

(Authority: 20 U.S.C. 1478(a)(3))

§ 303.142 Designation of lead agency.

Each application must include a designation of the lead agency in the State that will be responsible for the administration of funds provided under this part.

(Authority: 20 U.S.C. 1478(a)(1))

§ 303.143 Designation regarding financial responsibility.

Each application must include a designation by the State of an individual or entity responsible for assigning financial responsibility among appropriate agencies.

(Authority: 20 U.S.C. 1478(a)(2))

§ 303.144 Assurance regarding use of funds.

Each application must include an assurance that funds received under this part will be used to assist the State to plan, develop, and implement the statewide system required under subparts D through F of this part.

(Authority: 20 U.S.C. 1475, 1478(a)(4))

§ 303.145 Description of use of funds.

(a) *General.* Each application must include a description of how a State proposes to use its funds under this part for the fiscal year covered by the application. The description must be presented separately for the lead agency and the Council, and include the information required in paragraphs (b) through (d) of this section.

(b) *Administrative positions.* Each application must include—

(1) A list of administrative positions, with salaries, and a description of the duties for each person whose salary is paid in whole or in part with funds awarded under this part; and

(2) For each position, the percentage of salary paid with those funds.

(c) *Planning, development, and implementation activities.* Each application must include—

(1) A description of the nature and scope of each major activity to be carried out under this part in planning, developing, and implementing the statewide system of early intervention services; and

(2) The approximate amount of funds to be spent for each activity.

(d) *Direct services.* (1) Each application must include a description of any direct services that the State expects to provide to eligible children and their families with funds under this part, consistent with §§ 303.521 and 303.527.

(2) The description must include information about each type of service to be provided, including—

(i) A summary of the methods to be used to provide the service (e.g., contracts or other arrangements with specified public or private organizations); and

(ii) The approximate amount of funds under this part to be used for the service.

(e) *Activities by other agencies.* If other agencies are to receive funds under this part, the application must include—

(1) The name of each agency expected to receive funds;

(2) The approximate amount of funds each agency will receive; and

(3) A summary of the purposes for which the funds will be used.

(Authority: 20 U.S.C. 1478(a)(4) and (a)(6))

§ 303.146 Information about public participation.

Each application must include the information on public participation that is required in § 303.113(b).

(Authority: 20 U.S.C. 1478(a)(5))

§ 303.147 Equitable distribution of resources.

(a) Each application must include a description of the procedures used by the State to ensure an equitable distribution of resources made available under this part among all geographic areas within the State.

(b) In determining equitable distribution of resources, a State must take into account the need for services across all geographical areas within the State.

(Authority: 20 U.S.C. 1478(a)(7))

§ 303.148 Transition to preschool programs.

Each application must include the policies and procedures used to ensure a smooth transition for individuals participating in the early intervention program under this part who are eligible for participation in preschool programs under Part B of the Act, including—

(a) A description of how the families will be included in the transitional plans;

(b) A description of how the lead agency under this part will—

(1) Notify the appropriate local educational agency or intermediate educational unit in which the child resides; and

(2) Convene, with the approval of the family, a conference between the lead agency, the family, and the local educational agency or unit at least 90 days before the child is eligible for the

preschool program under Part B of the Act in accordance with State law, to—

(i) Review the child's program options for the period from the child's third birthday through the remainder of the school year; and

(ii) Establish a transition plan; and

(c) If the State educational agency, which is responsible for administering preschool programs under Part B of the Act, is not the lead agency under this part, an interagency agreement between the two agencies to ensure coordination on transition matters.

(Authority: 20 U.S.C. 1478(a)(6))

Note 1: Among the matters that should be considered in developing policies and procedures to ensure a smooth transition of children from one program to the other are the following:

- The financial responsibilities of all appropriate agencies, consistent with §§ 303.523 and 300.152.
- The responsibility for performing evaluations of children (see §§ 303.322 and 300.531).
- The development and implementation of an individualized education program ("IEP") or an individualized family service plan ("IFSP") for each child, consistent with the requirements of law (see § 303.344(h) and sections 613(a)(15) and 614(a)(5) of the Act).
- The coordination of communication between agencies and the child's family.
- The mechanisms to ensure the uninterrupted provision of appropriate services to the child.

Note 2: While the transition requirements of the Act and this section pertain to children who are eligible for preschool programs under Part B, States are encouraged to adopt policies and procedures to facilitate a smooth transition of other children who are exiting the Part H program as well.

Specific Application Requirements for Years One Through Five and Thereafter

§ 303.149 Application requirements for first and second years.

A State's annual application for the first and second years of participation under this part must contain the information required in §§ 303.141 through 303.148.

(Authority: 20 U.S.C. 1475, 1478(a))

§ 303.150 Third year applications.

(a) *General.* A State's third year application under this part must contain the following:

(1) The information required in §§ 303.141 through 303.148.

(2) Either—

(i) The information and assurances regarding the statewide system of early intervention services, as required in paragraph (b) of this section; or

(ii) If the State is eligible for a waiver, a request for a waiver, in accordance with the requirements in § 303.151.

(3) Other information that the Secretary may require.

(b) *Adoption of policy on statewide system.* Each third year application must include information and assurances demonstrating to the satisfaction of the Secretary that—

(1) It is the policy of the State to develop and implement a statewide, comprehensive, coordinated, interagency, multidisciplinary system for providing early intervention services to all children eligible under this part and their families;

(2) The policy in paragraph (b)(1) of this section incorporates all of the components of the statewide system of early intervention services that are required under this part; and

(3) Subject to § 303.341(a), the statewide system will be in effect no later than the beginning of the State's fourth year of participation under this part.

(Authority: 20 U.S.C. 1475(b), 1478(a))

§ 303.151 Waiver of the policy adoption requirement for the third year.

The Secretary may award a grant to a State under this part for the third year even if the State has not adopted the policy required in § 303.150(b), if the State, in its third year application, includes a statement requesting a waiver, including—

(a) Information demonstrating that the State has made a good faith effort to adopt a policy that meets the requirements in § 303.150 (b)(1) and (b)(2);

(b) The reasons why the State was unable to meet the timeline for policy adoption, and the steps remaining before the policy will be adopted; and

(c) An assurance that, except as provided in § 303.341(a), the policy required in § 303.150 (b)(1) and (b)(2) will be adopted and go into effect no later than the beginning of the State's fourth year of participation under this part.

(Authority: 20 U.S.C. 1475(b)(2))

Note: An example of when the Secretary may grant a waiver is a situation in which a State's policy is awaiting action by the State legislature, but the legislative session does not commence until after the State's application must be submitted.

§ 303.152 Fourth year applications.

A State's application for the fourth year of participation under this part must contain—

(a) The information required in §§ 303.141 through 303.148;

(b) Information and assurances to demonstrate that—

(1) The requirements in § 303.150 (b)(1) and (b)(2) are met; and

(2) Subject to § 303.341(a), the statewide system of early intervention services is in effect, or will be in effect no later than the beginning of the fourth year of the State's participation under this part;

(c) Information and assurances required in §§ 303.161 through 303.176; and

(d) Other information that the Secretary may require.

(Authority: 20 U.S.C. 1475(b), 1478(a))

§ 303.153 States with mandates as of September 1, 1986, to serve children with disabilities from birth.

(a) Subject to the requirements in paragraph (b) of this section, a State that has in effect a State law, enacted before September 1, 1986, that requires the provision of a free appropriate public education to children with disabilities from birth through two is eligible for a grant under this part for the first through the fourth year of its participation.

(b) A State meeting the conditions in paragraph (a) of this section must—

(1) Have on file with the Secretary a statement of assurances containing the information required in §§ 303.121 through 303.128;

(2) Submit an annual application for years one through four that contains the information in §§ 303.141 through 303.148;

(3) Meet the public participation requirements in §§ 303.110 through 303.113; and

(4) Provide a copy of the State law that requires the provision of a free appropriate public education to children with disabilities from birth through age two.

(c) In order to receive funds under this part for the fifth and succeeding years, the State must submit an application that meets the requirements in § 303.154.

(Authority: 20 U.S.C. 1475(d))

§ 303.154 Applications for year five and each year thereafter.

(a) *Fifth year application.* A State's application for the fifth year of its participation under this part must contain—

(1) The information and assurances required in §§ 303.141 through 303.148 and §§ 303.161 through 303.176;

(2) Information and assurances demonstrating to the satisfaction of the Secretary that the statewide system of early intervention services required in this part is in effect;

(3) A policy that, no later than the beginning of the fifth year of the State's participation, appropriate early intervention services will be available to

all children in the State who are eligible under this part and their families;

(4) A description of the services to be provided no later than the beginning of the fifth year, in accordance with the timetables under § 303.302; and

(5) Other information that the Secretary may require.

(b) *Applications for succeeding years.* A State's applications for the succeeding years of participation under this program must contain information and assurances demonstrating to the satisfaction of the Secretary that the State will continue to meet all applicable conditions in paragraph (a) of this section.

(Authority: 20 U.S.C. 1475(c), 1476(b)(2), and 1478(a))

§ 303.155 Differential funding.

Notwithstanding any other provision of this part, an eligible entity that is experiencing significant hardships in meeting the eligibility requirements for a grant under this part for the fourth or fifth year of participation may qualify for a grant for fiscal years 1990, 1991, or 1992 under section 675(e) of the Act.

(Authority: 20 U.S.C. 1475(e))

Components of a Statewide System—Application Requirements for Years Four, Five, and Thereafter

§ 303.160 Minimum components of a statewide system.

Each application must address the minimum components of a statewide system of coordinated, comprehensive, multidisciplinary, interagency programs providing appropriate early intervention services to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities on reservations. The minimum components of a statewide system are described in §§ 303.161 through § 303.176.

(Authority: 20 U.S.C. 1476(a), 1478(a)(9))

§ 303.161 State definition of developmental delay.

Each application must include the State's definition of "developmental delay," as described in § 303.300.

(Authority: 20 U.S.C. 1476(b)(1))

§ 303.162 Central directory.

Each application must include information and assurances demonstrating to the satisfaction of the Secretary that the State has developed a central directory of information that meets the requirements in § 303.301.

(Authority: 20 U.S.C. 1476(b)(7))

§ 303.163 Timetables for serving eligible children.

Each application must include an assurance that the timetables required in $303.302 have been established and will be met.

(Authority: 20 U.S.C. 1476(b)(2))

§ 303.164 Public awareness program.

Each application must include information and assurances demonstrating to the satisfaction of the Secretary that the State has established a public awareness program that meets the requirements in § 303.320.

(Authority: 20 U.S.C. 1476(b)(6))

§ 303.165 Comprehensive child find system.

Each application must include—

(a) The policies and procedures required in § 303.321(b);

(b) Information demonstrating that the requirements on coordination in § 303.321(c) are met;

(c) The referral procedures required in § 303.321(d), and either—

(1) A description of how the referral sources are informed about the procedures; or

(2) A copy of any memorandum or other document used by the lead agency to transmit the procedures to the referral sources; and

(d) The timelines in § 303.321(e).

(Authority: 20 U.S.C. 1476(b)(5))

§ 303.166 Evaluation, assessment, and nondiscriminatory procedures.

Each application must include information to demonstrate that the requirements in §§ 303.322 and 303.323 are met.

(Authority: 20 U.S.C. 1476(b)(3); 1477(a)(1), (d)(2), and (d)(3))

§ 303.167 Individualized family service plans.

Each application must include—

(a) An assurance that the IFSP requirements in § 303.341 will be met; and

(b) Information demonstrating that—

(1) The State's procedures for developing, reviewing, and evaluating IFSPs are consistent with the requirements in §§ 303.340, 303.342, 303.343 and 303.345; and

(2) The content of IFSPs used in the State is consistent with the requirements in $303.344.

(Authority: 20 U.S.C. 1476(b)(4), 1477(d))

§ 303.168 Comprehensive system of personnel development (CSPD).

Each application must include information to show that the requirements in § 303.360(b) are met.

(Authority: 20 U.S.C. 1476(b)(8))

§ 303.169 Personnel standards.

(a) Each application must include policies and procedures that are consistent with the requirements in § 303.361.

(Authority: 20 U.S.C. 1476(b)(13))

§ 303.170 Procedural safeguards.

Each application must include procedural safeguards that—

(a) Are consistent with §§ 303.400 through 303.406, 303.420 through 303.425 and 303.460; and

(b) Incorporate either—

(1) The due process procedures in 34 CFR 300.506 through 300.512; or

(2) The procedures that the State has developed to meet the requirements in §§ 303.420(b) and 303.421 through 303.425.

(Authority: 20 U.S.C. 1476(b)(12))

§ 303.171 Supervision and monitoring of programs.

Each application must include information to show that the requirements in § 303.501 are met.

(Authority: 20. U.S.C. 1476(b)(9)(A))

§ 303.172 Lead agency procedures for resolving complaints.

Each application must include procedures that are consistent with the requirements in §§ 303.510 through 303.512.

(Authority: 20 U.S.C. 1476(b)(9))

§ 303.173 Policies and procedures related to financial matters.

Each application must include—

(a) Funding policies that meet the requirements in §§ 303.520 and 303.521:

(b) Information about funding sources, as required in § 303.522;

(c) Procedures to ensure the timely delivery of services, in accordance with § 303.525; and

(d) A procedure related to the timely reimbursement of funds under this part, in accordance with §§ 303.527(b) and 303.528.

(Authority: 20 U.S.C. 1476(b)(9)(D) and (b)(9)(E), 1476(b)(11), 1481)

§ 303.174 Interagency agreements; resolution of individual disputes.

Each application must include—

(a) A copy of each interagency agreement that has been developed under § 303.523; and

(b) Information to show that the requirements in § 303.524 are met.

(Authority: 20 U.S.C. 1476(b)(9)(E))

§ 303.175 Policy for contracting or otherwise arranging for services.

Each application must include a policy that meets the requirements in § 303.526.

(Authority: 20 U.S.C. 1476(b)(10))

§ 303.176 Data collection.

Each application must include procedures that meet the requirements in § 303.540.

(Authority: 20 U.S.C. 1476(b)(14))

Participation by the Secretary of the Interior

§ 303.180 Payments to the Secretary of the Interior for Indian tribes and tribal organizations.

(a) The Secretary makes payments to the Secretary of the Interior for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior.

(b)(1) The Secretary of the Interior shall distribute payments under this part to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and defined under section 4 of the Indian Self-Determination and Education Assistance Act), or combinations of those entities, in accordance with section 684(b) of the Act.

(2) A tribe or tribal organization is eligible to receive a payment under this section if the tribe is on a reservation that is served by an elementary or secondary school operated or funded by the Bureau of Indian Affairs ("BIA").

(c)(1) Within 90 days after the end of each fiscal year the Secretary of the Interior shall provide the Secretary with a report on the payments distributed under this section.

(2) The report must include—

(i) The name of each tribe, tribal organization, or combination of those entities that received a payment for the fiscal year;

(ii) The amount of each payment; and

(iii) The date of each payment.

(Authority: 20 U.S.C. 1484(b); H.R. REP. NO. 198, 102d Cong., 1st Sess. 22 (1991))

Subpart C—Procedures for Making Grants to States

§ 303.200 Formula for State allocations.

(a) For each fiscal year, from the aggregate amount of funds available under this part for distribution to the States, the Secretary allots to each State an amount that bears the same ratio to the aggregate amount as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

(b) For the purpose of allotting funds to the States under paragraph (a) of this section—

(1) *Aggregate amount* means the amount available for distribution to the States after the Secretary determines the amount of payments to be made to the Secretary of the Interior under § 303.203 and to the jurisdictions under § 303.204;

(2) *Infants and toddlers* means children from birth through age two in the general population, based on the most recent satisfactory data as determined by the Secretary; and

(3) *State* means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Authority: 20 U.S.C. 1484(c))

§ 303.201 Distribution of allotments from non-participating States.

If a State elects not to receive its allotment, the Secretary reallots those funds among the remaining States, in accordance with § 303.200 (a).

(Authority: 20 U.S.C. 1484(d))

§ 303.202 Minimum grant that a State may receive.

No State receives less than 0.5 percent of the aggregate amount available under § 303.200 or $500,000, whichever is greater.

(Authority: 20 U.S.C. 1484(c)(1))

§ 303.203 Payments to the Secretary of the Interior.

The amount of the payment to the Secretary of the Interior under § 303.180 for any fiscal year is 1.25 percent of the aggregate amount available to States after the Secretary determines the amount of payments to be made to the jurisdictions under § 303.204.

(Authority: 20 U.S.C. 1484(b))

§ 303.204 Payments to the jurisdictions.

From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve up to 1 percent for payments to the jurisdictions listed in § 303.2 in accordance with their respective needs.

(Authority: 20 U.S.C. 1484(a))

§ 303.205 Differential funding grants.

Notwithstanding any other provision of this part, section 675(e) of the Act governs—

(a) The amount of any grant for fiscal years 1990, 1991, or 1992 under that subsection; and

(b) The reallotment of funds for those fiscal years.

(Authority: 20 U.S.C. 1475(e))

Subpart D—Program and Service Components of a Statewide System of Early Intervention Services

General

§ 303.300 State eligibility criteria and procedures.

Each statewide system of early intervention services must include the eligibility criteria and procedures, consistent with § 303.16, that will be used by the State in carrying out programs under this part.

(a) The State shall define "developmental delay" by—

(1) Describing, for each of the areas listed in § 303.16(a)(1), the procedures, including the use of informed clinical opinion, that will be used to measure a child's development; and

(2) Stating the levels of functioning or other criteria that constitute a developmental delay in each of those areas.

(b) The State shall describe the criteria and procedures, including the use of informed clinical opinion, that will be used to determine the existence of a condition that has a high probability of resulting in developmental delay under § 303.16(a)(2).

(c) If the State elects to include in its system children who are at risk under § 303.16(b), the State shall describe the criteria and procedures, including the use of informed clinical opinion, that will be used to identify those children.

(Authority: 20 U.S.C. 1472(1), 1476(b)(1))

Note: Under this section and § 303.322 (c)(2), States are required to ensure that informed clinical opinion is used in determining a child's eligibility under this part. Informed clinical opinion is especially important if there are no standardized measures, or if the standardized procedures are not appropriate for a given age or developmental area. If a given standardized procedure is considered to be appropriate, a State's criteria could include percentiles or percentages of levels of functioning on standardized measures.

§ 303.301 Central directory.

(a) Each system must include a central directory of information about—

(1) Public and private early intervention services, resources, and experts available in the State;

(2) Research and demonstration projects being conducted in the State; and

(3) Professional and other groups that provide assistance to children eligible under this part and their families.

(b) The information required in paragraph (a) of this section must be in sufficient detail to—

(1) Ensure that the general public will be able to determine the nature and scope of the services and assistance available from each of the sources listed in the directory; and

(2) Enable the parent of a child eligible under this part to contact, by telephone or letter, any of the sources listed in the directory.

(c) The central directory must be—

(1) Updated at least annually; and

(2) Accessible to the general public.

(d) To meet the requirements in paragraph (c)(2) of this section, the lead agency shall arrange for copies of the directory to be available—

(1) In each geographic region of the State, including rural areas; and

(2) In places and a manner that ensure accessibility by persons with disabilities.

(Authority: 20 U.S.C. 1476(b)(7))

Note: Examples of appropriate groups that provide assistance to eligible children and their families include parent support groups and advocate associations.

§ 303.302 Timetables for serving eligible children.

Except as provided in § 303.4, each system must include timetables for ensuring that appropriate early intervention services will be available to all infants and toddlers with disabilities in the State, including Indian infants and toddlers with disabilities on reservations, no later than the beginning of the fifth year of the State's participation under this part.

(Authority: 20 U.S.C. 1419(g), 1476(b)(2))

Note: Amendments to the Act made by Pub. L. 102-119 extend the State's duty to make services available to Indian children on reservations served by BIA schools. The State's obligation under prior law to make services available to other Indian children is unaffected by these amendments.

Identification and Evaluation

§ 303.320 Public awareness program.

Each system must include a public awareness program that focuses on the early identification of children who are eligible to receive early intervention services under this part and includes the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services. The public awareness program must provide for informing the public about—

(a) The State's early intervention program;

(b) The child find system, including—

(1) The purpose and scope of the system;

(2) How to make referrals; and

(3) How to gain access to a comprehensive, multidisciplinary evaluation and other early intervention services; and

(c) The central directory.

(Authority: 20 U.S.C. 1476(b)(6))

Note 1: An effective public awareness program is one that does the following:

1. Provides a continuous, ongoing effort that is in effect throughout the State, including rural areas;

2. Provides for the involvement of, and communication with, major organizations throughout the State that have a direct interest in this part, including public agencies at the State and local level, private providers, professional associations, parent groups, advocate associations, and other organizations;

3. Has coverage broad enough to reach the general public, including those who have disabilities; and

4. Includes a variety of methods for informing the public about the provisions of this part.

Note 2: Examples of methods for informing the general public about the provisions of this part include: (1) use of television, radio, and newspaper releases, (2) pamphlets and posters displayed in doctor's offices, hospitals, and other appropriate locations, and (3) the use of a toll-free telephone service.

§ 303.321 Comprehensive child find system.

(a) *General.* (1) Each system must include a comprehensive child find system that is consistent with Part B of the Act (see 34 CFR 300.128), and meets the requirements in paragraphs (b) through (e) of this section.

(2) The lead agency, with the advice and assistance of the Council, shall be responsible for implementing the child find system.

(b) *Procedures.* The child find system must include the policies and procedures that the State will follow to ensure that—

(1) All infants and toddlers in the State who are eligible for services under this part are identified, located, and evaluated; and

(2) An effective method is developed and implemented to determine which children are receiving needed early intervention services, and which children are not receiving those services.

(c) *Coordination.* (1) The lead agency, with the assistance of the Council, shall ensure that the child find system under this part is coordinated with all other major efforts to locate and identify children conducted by other State agencies responsible for administering the various education, health, and social service programs relevant to this part, tribes and tribal organizations that receive payments under this part, and other tribes and tribal organizations as appropriate, including efforts in the—

(i) Program authorized by Part B of the Act;

(ii) Maternal and Child Health program under Title V of the Social Security Act;

(iii) Medicaid's Early Periodic Screening, Diagnosis and Treatment (EPSDT) program under Title XIX of the Social Security Act;

(iv) Developmental Disabilities Assistance and Bill of Rights Act; and

(v) Head Start Act.

(2) The lead agency, with the advice and assistance of the Council, shall take steps to ensure that—

(i) There will not be unnecessary duplication of effort by the various agencies involved in the State's child find system under this part; and

(ii) The State will make use of the resources available through each public agency in the State to implement the child find system in an effective manner.

(d) *Referral procedures.* (1) The child find system must include procedures for use by primary referral sources for referring a child to the appropriate public agency within the system for—

(i) Evaluation and assessment, in accordance with §§ 303.322 and 303.323; or

(ii) As appropriate, the provision of services, in accordance with § 303.342(a) or § 303.345.

(2) The procedures required in paragraph (b)(1) of this section must—

(i) Provide for an effective method of making referrals by primary referral sources;

(ii) Ensure that referrals are made no more than two working days after a child has been identified; and

(iii) Include procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate the information, as described in § 303.320, prepared by the lead agency on the availability of early intervention services to parents of infants and toddlers with disabilities.

(3) As used in paragraph (d)(1) of this section, "primary referral sources" includes—

(i) Hospitals, including prenatal and postnatal care facilities;

(ii) Physicians;

(iii) Parents;

(iv) Day care programs;

(v) Local educational agencies;

(vi) Public health facilities;

(vii) Other social service agencies; and

(viii) Other health care providers.

(e) *Timelines for public agencies to act on referrals.* (1) Once the public

agency receives a referral, it shall appoint a service coordinator as soon as possible.

(2) Within 45 days after it receives a referral, the public agency shall—

(i) Complete the evaluation and assessment activities in § 303.322; and

(ii) Hold an IFSP meeting, in accordance with § 303.342.

(Authority: 20 U.S.C. 1472(2)(E)(vii), 1476(b)(5))

Note: In developing the child find system under this part, States should consider (1) tracking systems based on high-risk conditions at birth, and (2) other activities that are being conducted by various agencies or organizations in the State.

§ 303.322 Evaluation and assessment.

(a) *General.* (1) Each system must include the performance of a timely, comprehensive, multidisciplinary evaluation of each child, birth through age two, referred for evaluation, including assessment activities related to the child and the child's family.

(2) The lead agency shall be responsible for ensuring that the requirements of this section are implemented by all affected public agencies and service providers in the State.

(b) *Definitions of evaluation and assessment.* As used in this part—

(1) *Evaluation* means the procedures used by appropriate qualified personnel to determine a child's initial and continuing eligibility under this part, consistent with the definition of "infants and toddlers with disabilities" in § 303.16, including determining the status of the child in each of the developmental areas in paragraph (c)(3)(ii) of this section.

(2) *Assessment* means the ongoing procedures used by appropriate qualified personnel throughout the period of a child's eligibility under this part to identify—

(i) The child's unique strengths and needs and the services appropriate to meet those needs; and

(ii) The resources, priorities, and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability.

(c) *Evaluation and assessment of the child.* The evaluation and assessment of each child must—

(1) Be conducted by personnel trained to utilize appropriate methods and procedures;

(2) Be based on informed clinical opinion; and

(3) Include the following:

(i) A review of pertinent records related to the child's current health status and medical history.

(ii) An evaluation of the child's level of functioning in each of the following developmental areas:

(A) Cognitive development.

(B) Physical development, including vision and hearing.

(C) Communication development.

(D) Social or emotional development.

(E) Adaptive development.

(iii) An assessment of the unique needs of the child in terms of each of the developmental areas in paragraph (c)(3)(ii) of this section, including the identification of services appropriate to meet those needs.

(d) *Family assessment.* (1) Family assessments under this part must be family-directed and designed to determine the resources, priorities, and concerns of the family related to enhancing the development of the child.

(2) Any assessment that is conducted must be voluntary on the part of the family.

(3) If an assessment of the family is carried out, the assessment must—

(i) Be conducted by personnel trained to utilize appropriate methods and procedures;

(ii) Be based on information provided by the family through a personal interview; and

(iii) Incorporate the family's description of its resources, priorities, and concerns related to enhancing the child's development.

(e) *Timelines.* (1) Except as provided in paragraph (e)(2) of this section, the evaluation and initial assessment of each child (including the family assessment) must be completed within the 45-day time period required in § 303.321(e).

(2) The lead agency shall develop procedures to ensure that in the event of exceptional circumstances that make it impossible to complete the evaluation and assessment within 45 days (e.g., if a child is ill), public agencies will—

(i) Document those circumstances; and

(ii) Develop and implement an interim IFSP, to the extent appropriate and consistent with § 303.345 (b)(1) and (b)(2).

(Authority: 20 U.S.C. 1476(b)(3); 1477(a)(1), (d)(2), and (d)(3))

Note: This section combines into one overall requirement the provisions on evaluation and assessment under the following sections of the Act: (1) Section 676(b)(3) (timely, comprehensive, multidisciplinary evaluation), and (2) section 677(a) (1) and (2) (multidisciplinary and family-directed assessments).

The section also requires that the evaluation-assessment process be broad enough to obtain information required in the IFSP concerning (1) the family's resources, priorities, and concerns related to the development of the child (section 677(d)(2)), and (2) the child's functioning level in each of the five developmental areas (section 677(d)(1)).

§ 303.323 Nondiscriminatory procedures.

Each lead agency shall adopt nondiscriminatory evaluation and assessment procedures. The procedures must provide that public agencies responsible for the evaluation and assessment of children and families under this part shall ensure, at a minimum, that—

(a) Tests and other evaluation materials and procedures are administered in the native language of the parents or other mode of communication, unless it is clearly not feasible to do so;

(b) Any assessment and evaluation procedures and materials that are used are selected and administered so as not to be racially or culturally discriminatory;

(c) No single procedure is used as the sole criterion for determining a child's eligibility under this part; and

(d) Evaluations and assessments are conducted by qualified personnel.

(Authority: 20 U.S.C. 1476(b)(3); 1477 (a)(1), (d)(2), and (d)(3))

Individualized Family Service Plans (IFSPs)

§ 303.340 General.

(a) Each system must include policies and procedures regarding individualized family service plans (IFSPs) that meet the requirements of this section and §§ 303.341 through 303.346.

(b) As used in this part, *individualized family service plan* and *IFSP* mean a written plan for providing early intervention services to a child eligible under this part and the child's family. The plan must—

(1) Be developed in accordance with §§ 303.342 and 303.343;

(2) Be based on the evaluation and assessment described in § 303.322; and

(3) Include the matters specified in § 303.344.

(c) *Lead agency responsibility.* The lead agency shall ensure that an IFSP is developed and implemented for each eligible child, in accordance with the requirements of this part. If there is a dispute between agencies as to who has responsibility for developing or implementing an IFSP, the lead agency shall resolve the dispute or assign responsibility.

(Authority: 20 U.S.C. 1477)

Note: In instances where an eligible child must have both an IFSP and an individualized service plan under another Federal program, it may be possible to develop a single consolidated document, provided that it (1) contains all of the required information in § 303.344, and (2) is developed in accordance with the requirements of this part.

§ 303.341 Meeting the IFSP requirements for years four and five.

(a) *Fourth year requirements.* No later than the beginning of the fourth year of a State's participation under this part, the State shall ensure that—

(1) Evaluations and assessments are conducted in accordance with § 303.322;

(2) An IFSP is developed, in accordance with §§ 303.342(a) and 303.343(a), for each child determined to be eligible under this part and the child's family; and

(3) Service coordination services are available to each eligible child and the child's family.

(b) *Requirements for the fifth year.* No later than the beginning of the fifth year of a State's participation under this part, a current IFSP must be in effect and implemented for each eligible child and the child's family.

(Authority: 20 U.S.C. 1476 (b)(2) and (b)(4), 1477 (a)(2) and (c))

§ 303.342 Procedures for IFSP development, review, and evaluation.

(a) *Meeting to develop initial IFSP—timelines.* For a child who has been evaluated for the first time and determined to be eligible, a meeting to develop the initial IFSP must be conducted within the 45-day time period in § 303.321(e).

(b) *Periodic review.* (1) A review of the IFSP for a child and the child's family must be conducted every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine—

(i) The degree to which progress toward achieving the outcomes is being made; and

(ii) Whether modification or revision of the outcomes or services is necessary.

(2) The review may be carried out by a meeting or by another means that is acceptable to the parents and other participants.

(c) *Annual meeting to evaluate the IFSP.* A meeting must be conducted on at least an annual basis to evaluate the IFSP for a child and the child's family, and, as appropriate, to revise its provisions. The results of any current evaluations conducted under § 303.322(c), and other information available from the ongoing assessment of the child and family, must be used in determining what services are needed and will be provided.

(d) *Accessibility and convenience of meetings.* (1) IFSP meetings must be conducted—

(i) In settings and at times that are convenient to families; and

(ii) In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.

(2) Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.

(e) *Parental consent.* The contents of the IFSP must be fully explained to the parents and informed written consent from the parents must be obtained prior to the provision of early intervention services described in the plan. If the parents do not provide consent with respect to a particular early intervention service, that service may not be provided. The early intervention services to which parental consent is obtained must be provided.

(Authority: 20 U.S.C. 1477)

Note: The requirement for the annual evaluation incorporates the periodic review process. Therefore, it is necessary to have only one separate periodic review each year (i.e., six months after the initial and subsequent annual IFSP meetings), unless conditions warrant otherwise.

Because the needs of infants and toddlers change so rapidly during the course of a year, certain evaluation procedures may need to be repeated before conducting the periodic reviews and annual evaluation meetings in paragraphs (b) and (c) of this section.

§ 303.343 Participants in IFSP meetings and periodic reviews.

(a) *Initial and annual IFSP meetings.* (1) Each initial meeting and each annual meeting to evaluate the IFSP must include the following participants:

(i) The parent or parents of the child.

(ii) Other family members, as requested by the parent, if feasible to do so;

(iii) An advocate or person outside of the family, if the parent requests that the person participate.

(iv) The service coordinator who has been working with the family since the initial referral of the child for evaluation, or who has been designated by the public agency to be responsible for implementation of the IFSP.

(v) A person or persons directly involved in conducting the evaluations and assessments in § 303.322.

(vi) As appropriate, persons who will be providing services to the child or family.

(2) If a person listed in paragraph (a)(1)(v) of this section is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including—

(i) Participating in a telephone conference call;

(ii) Having a knowledgeable authorized representative attend the meeting; or

(iii) Making pertinent records available at the meeting.

(b) *Periodic review.* Each periodic review must provide for the participation of persons in paragraphs (a)(1)(i) through (a)(1)(iv) of this section. If conditions warrant, provisions must be made for the participation of other representatives identified in paragraph (a) of this section.

(Authority: 20 U.S.C. 1477(b))

§ 303.344 Content of an IFSP.

(a) *Information about the child's status.* (1) The IFSP must include a statement of the child's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development.

(2) The statement in paragraph (a)(1) of this section must be based on professionally acceptable objective criteria.

(b) *Family information.* With the concurrence of the family, the IFSP must include a statement of the family's resources, priorities, and concerns related to enhancing the development of the child.

(c) *Outcomes.* The IFSP must include a statement of the major outcomes expected to be achieved for the child and family, and the criteria, procedures, and timelines used to determine—

(1) The degree to which progress toward achieving the outcomes is being made; and

(2) Whether modifications or revisions of the outcomes or services are necessary.

(d) *Early intervention services.* (1) The IFSP must include a statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes identified in paragraph (c) of this section, including—

(i) The frequency, intensity, and method of delivering the services;

(ii) The natural environments, as described in § 303.12(b), in which early intervention services will be provided;

(iii) The location of the services; and

(iv) The payment arrangements, if any.

(2) As used in paragraph (d)(1)(i) of this section—

(i) *Frequency* and *intensity* mean the number of days or sessions that a service will be provided, the length of time the service is provided during each session, and whether the service is provided on an individual or group basis; and

(ii) *Method* means how a service is provided.

(3) As used in paragraph (d)(1)(iii) of this section, *location* means the actual place or places where a service will be provided.

(e) *Other services.* (1) To the extent appropriate, the IFSP must include—

(i) Medical and other services that the child needs, but that are not required under this part; and

(ii) The funding sources to be used in paying for those services.

(2) The requirement in paragraph (e)(1) of this section does not apply to routine medical services (e.g., immunizations and "well-baby" care), unless a child needs those services and the services are not otherwise available or being provided.

(f) *Dates; duration of services.* The IFSP must include—

(1) The projected dates for initiation of the services in paragraph (d)(1) of this section as soon as possible after the IFSP meetings described in § 303.342; and

(2) The anticipated duration of those services.

(g) *Service coordinator.* (1) The IFSP must include the name of the service coordinator from the profession most immediately relevant to the child's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part), who will be responsible for the implementation of the IFSP and coordination with other agencies and persons.

(2) In meeting the requirements in paragraph (g)(1) of this section, the public agency may—

(i) Assign the same service coordinator who was appointed at the time that the child was initially referred for evaluation to be responsible for implementing a child's and family's IFSP; or

(ii) Appoint a new service coordinator.

(3) As used in paragraph (g)(1) of this section, the term *profession* includes "service coordination."

(h) *Transition at age three.* (1) The IFSP must include the steps to be taken to support the transition of the child, upon reaching age three, to—

(i) Preschool services under Part B of the Act, in accordance with § 303.148, to the extent that those services are considered appropriate; or

(ii) Other services that may be available, if appropriate.

(2) The steps required in paragraph (h)(1) of this section include—

(i) Discussions with, and training of, parents regarding future placements and other matters related to the child's transition;

(ii) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting; and

(iii) With parental consent, the transmission of information about the child to the local educational agency, to ensure continuity of services, including evaluation and assessment information required in § 303.322, and copies of IFSPs that have been developed and implemented in accordance with §§ 303.340 through 303.346.

(Authority: 20 U.S.C. 1477(d))

Note 1: With respect to the requirements in paragraph (d) of this section, the appropriate location of services for some infants and toddlers might be a hospital setting—during the period in which they require extensive medical intervention. However, for these and other eligible children, early intervention services must be provided in natural environments (e.g., the home, day care centers, or other community settings) to the maximum extent appropriate to the needs of the child.

Note 2: Throughout the process of developing and implementing IFSPs for an eligible child and the child's family, it is important for agencies to recognize the variety of roles that family members play in enhancing the child's development. It also is important that the degree to which the needs of the family are addressed in the IFSP process is determined in a collaborative manner with the full agreement and participation of the parents of the child. Parents retain the ultimate decision in determining whether they, their child, or other family members will accept or decline services under this part.

Note 3: The early intervention services in paragraph (d) of this section are those services that a State is required to provide to a child in accordance with § 303.12.

The "other services" in paragraph (e) of this section are services that a child or family needs, but that are neither required nor covered under this part. While listing the nonrequired services in the IFSP does not mean that those services must be provided, their identification can be helpful to both the child's family and the service coordinator, for the following reasons: First, the IFSP would provide a comprehensive picture of the child's total service needs (including the need for medical and health services, as well as early intervention services). Second, it is appropriate for the service coordinator to assist the family in securing the non-required services (e.g., by (1) determining if there is a public agency that could provide financial assistance, if needed, (2) assisting in the preparation of eligibility claims or insurance claims, if needed, and (3) assisting the family in seeking out and arranging for the child to receive the needed medical-health services).

Thus, to the extent appropriate, it is important for a State's procedures under this part to provide for ensuring that other needs of the child, and of the family related to enhancing the development of the child, such as medical and health needs, are considered and addressed, including determining (1) who will provide each service, and when, where, and how it will be provided, and (2) how the service will be paid for (e.g., through private insurance, an existing Federal-State funding source, such as Medicaid or EPSDT, or some other funding arrangement).

Note 4: Although the IFSP must include information about each of the items in paragraphs (b) through (h) of this section, this does not mean that the IFSP must be a detailed, lengthy document. It might be a brief outline, with appropriate attachments that address each of the points in the paragraphs under this section. It is important for the IFSP itself to be clear about (a) what services are to be provided, (b) the actions that are to be taken by the service coordinator in initiating those services, and (c) what actions will be taken by the parents.

§ 303.345 Provision of services before evaluation and assessment are completed.

Early intervention services for an eligible child and the child's family may commence before the completion of the evaluation and assessment in § 303.322, if the following conditions are met:

(a) Parental consent is obtained.

(b) An interim IFSP is developed that includes—

(1) The name of the service coordinator who will be responsible, consistent with § 303.344(g), for implementation of the interim IFSP and coordination with other agencies and persons; and

(2) The early intervention services that have been determined to be needed immediately by the child and the child's family.

(c) The evaluation and assessment are completed within the time period required in § 303.322(e).

(Authority: 20 U.S.C. 1477(c))

Note: This section is intended to accomplish two specific purposes: (1) To facilitate the provision of services in the event that a child has obvious immediate needs that are identified, even at the time of referral (e.g., a physician recommends that a child with cerebral palsy begin receiving physical therapy as soon as possible), and (2) to ensure that the requirements for the timely evaluation and assessment are not circumvented.

§ 303.346 Responsibility and accountability.

Each agency or person who has a direct role in the provision of early intervention services is responsible for

making a good faith effort to assist each eligible child in achieving the outcomes in the child's IFSP. However, Part H of the Act does not require that any agency or person be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.

(Authority: 20 U.S.C. 1477)

Personnel Training and Standards

§ 303.360 Comprehensive system of personnel development.

(a) Each system must include a comprehensive system of personnel development.

(b) The personnel development system under this part must—

(1) Be consistent with the comprehensive system of personnel development required under Part B of the Act (34 CFR 300.380 through 300.387);

(2) Provide for preservice and inservice training to be conducted on an interdisciplinary basis, to the extent appropriate;

(3) Provide for the training of a variety of personnel needed to meet the requirements of this part, including public and private providers, primary referral sources, paraprofessionals, and persons who will serve as service coordinators; and

(4) Ensure that the training provided relates specifically to—

(i) Understanding the basic components of early intervention services available in the State;

(ii) Meeting the interrelated social or emotional, health, developmental, and educational needs of eligible children under this part; and

(iii) Assisting families in enhancing the development of their children, and in participating fully in the development and implementation of IFSPs.

(c) A personnel development system under this part may include—

(i) Implementing innovative strategies and activities for the recruitment and retention of early intervention service providers;

(ii) Promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part;

(iii) Training personnel to work in rural areas; and

(iv) Training personnel to coordinate transition services for infants and toddlers with disabilities from an early intervention program under this part to a preschool program under Part B of the Act.

(Authority: 20 U.S.C. 1476(b)(8))

§ 303.361 Personnel standards.

(a) As used in this part—(1) *Appropriate professional requirements in the State* means entry level requirements that—

(i) Are based on the highest requirements in the State applicable to the profession or discipline in which a person is providing early intervention services; and

(ii) Establish suitable qualifications for personnel providing early intervention services under this part to eligible children and their families who are served by State, local, and private agencies.

(2) *Highest requirements in the State applicable to a specific profession or discipline* means the highest entry-level academic degree needed for any State approved or recognized certification, licensing, registration, or other comparable requirements that apply to that profession or discipline.

(3) *Profession or discipline* means a specific occupational category that—

(i) Provides early intervention services to children eligible under this part and their families;

(ii) Has been established or designated by the State; and

(iii) Has a required scope of responsibility and degree of supervision.

(4) *State approved or recognized certification, licensing, registration, or other comparable requirements* means the requirements that a State legislature either has enacted or has authorized a State agency to promulgate through rules to establish the entry-level standards for employment in a specific profession or discipline in that State.

(b)(1) Each statewide system must have policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained.

(2) The policies and procedures required in paragraph (b)(1) of this section must provide for the establishment and maintenance of standards that are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the profession or discipline in which a person is providing early intervention services.

(c) To the extent that a State's standards for a profession or discipline, including standards for temporary or emergency certification, are not based on the highest requirements in the State applicable to a specific profession or discipline, the State's application for assistance under this part must include the steps the State is taking, the procedures for notifying public agencies and personnel of those steps, and the timelines it has established for the retraining or hiring of personnel that meet appropriate professional requirements in the State.

(d)(1) In meeting the requirements in paragraphs (b) and (c) of this section, a determination must be made about the status of personnel standards in the State. That determination must be based on current information that accurately describes, for each profession or discipline in which personnel are providing early intervention services, whether the applicable standards are consistent with the highest requirements in the State for that profession or discipline.

(2) The information required in paragraph (d)(1) of this section must be on file in the lead agency, and available to the public.

(e) In identifying the "highest requirements in the State" for purposes of this section, the requirements of all State statutes and the rules of all State agencies applicable to serving children eligible under this part and their families must be considered.

(Authority: 20 U.S.C. 1476(b)(13))

Note: This section requires that a State use its own existing highest requirements to determine the standards appropriate to personnel who provide early intervention services under this part. The regulations do not require States to set any specified training standard, such as a master's degree, for employment of personnel who provide services under this part.

The regulations permit each State to determine the specific occupational categories required to provide early intervention services to children eligible under this part and their families, and to revise or expand these categories as needed. The professions or disciplines need not be limited to traditional occupational categories.

Subpart E—Procedural Safeguards

General

§ 303.400 General responsibility of lead agency for procedural safeguards.

Each lead agency shall be responsible for—

(a) Establishing or adopting procedural safeguards that meet the requirements of this subpart; and

(b) Ensuring effective implementation of the safeguards by each public agency in the State that is involved in the provision of early intervention services under this part.

(Authority: 20 U.S.C. 1480)

§ 303.401 Definitions of consent, native language, and personally identifiable information.

As used in this subpart—(a) *Consent* means that—

(1) The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication;

(2) The parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

(3) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time;

(b) *Native language*, where used with reference to persons of limited English proficiency, means the language or mode of communication normally used by the parent of a child eligible under this part;

(c) *Personally identifiable* means that information includes—

(1) The name of the child, the child's parent, or other family member;

(2) The address of the child;

(3) A personal identifier, such as the child's or parent's social security number; or

(4) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

(Authority: 20 U.S.C. 1480)

§ 303.402 Opportunity to examine records.

In accordance with the confidentiality procedures in the regulations under part B of the Act (34 CFR 300.560 through 300.576), the parents of a child eligible under this part must be afforded the opportunity to inspect and review records relating to evaluations and assessments, eligibility determinations, development and implementation of IFSPs, individual complaints dealing with the child, and any other area under this part involving records about the child and the child's family.

(Authority: 20 U.S.C. 1480(4))

§ 303.403 Prior notice; native language.

(a) *General.* Written prior notice must be given to the parents of a child eligible under this part a reasonable time before a public agency or service provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family.

(b) *Content of notice.* The notice must be in sufficient detail to inform the parents about—

(1) The action that is being proposed or refused;

(2) The reasons for taking the action; and

(3) All procedural safeguards that are available under this part.

(c) *Native language.* (1) The notice must be—

(i) Written in language understandable to the general public; and

(ii) Provided in the native language of the parents, unless it is clearly not feasible to do so.

(2) If the native language or other mode of communication of the parent is not a written language, the public agency, or designated service provider, shall take steps to ensure that—

(i) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(ii) The parent understands the notice; and

(iii) There is written evidence that the requirements of this paragraph have been met.

(3) If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent (such as sign language, braille, or oral communication).

(Authority: 20 U.S.C. 1480 (6) and (7))

§ 303.404 Parent consent.

(a) Written parental consent must be obtained before—

(1) Conducting the initial evaluation and assessment of a child under § 303.322; and

(2) Initiating the provision of early intervention services (see § 303.342(e)).

(b) If consent is not given, the public agency shall make reasonable efforts to ensure that the parent—

(1) Is fully aware of the nature of the evaluation and assessment or the services that would be available; and

(2) Understands that the child will not be able to receive the evaluation and assessment or services unless consent is given.

(Authority: 20 U.S.C. 1480)

Note 1: In addition to the consent requirements in this section, other consent requirements are included in (1) § 303.460(a), regarding the exchange of personally identifiable information among agencies, and (2) the confidentiality provisions in the regulations under part B of the Act (34 CFR 300.571) and 34 CFR part 99 (Family Educational Rights and Privacy), both of which apply to this part.

Note 2: The part B regulations contain procedures to enable public agencies to initiate a due process hearing or use other procedures to override a parent's refusal to consent to the initial evaluation of the parent's child. Those procedures apply to eligible children under this part, since the part B evaluation requirement applies to all children with disabilities in a State, including infants and toddlers.

§ 303.405 Parent right to decline service.

The parents of a child eligible under this part may determine whether they, their child, or other family members will accept or decline any early intervention service under this part in accordance with State law without jeopardizing other early intervention services under this part.

(Authority: 20 U.S.C. 1480(3))

§ 303.406 Surrogate parents.

(a) *General.* Each lead agency shall ensure that the rights of children eligible under this part are protected if—

(1) No parent (as defined in § 303.18) can be identified;

(2) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

(3) The child is a ward of the State under the laws of that State.

(b) *Duty of lead agency and other public agencies.* The duty of the lead agency, or other public agency under paragraph (a) of this section, includes the assignment of an individual to act as a surrogate for the parent. This must include a method for—

(1) Determining whether a child needs a surrogate parent; and

(2) Assigning a surrogate parent to the child.

(c) *Criteria for selecting surrogates.* (1) The lead agency or other public agency may select a surrogate parent in any way permitted under State law.

(2) Public agencies shall ensure that a person selected as a surrogate parent—

(i) Has no interest that conflicts with the interests of the child he or she represents; and

(ii) Has knowledge and skills that ensure adequate representation of the child.

(d) *Non-employee requirement; compensation.* (1) A person assigned as a surrogate parent may not be an employee of any agency involved in the provision of early intervention or other services to the child.

(2) A person who otherwise qualifies to be a surrogate parent under paragraph (d)(1) of this section is not an employee solely because he or she is paid by a public agency to serve as a surrogate parent.

(e) *Responsibilities.* A surrogate parent may represent a child in all matters related to—

(1) The evaluation and assessment of the child;

(2) Development and implementation of the child's IFSPs, including annual evaluations and periodic reviews;

(3) The ongoing provision of early intervention services to the child; and

(4) Any other rights established under this part.

(Authority: 20 U.S.C. 1480(5))

Impartial Procedures for Resolving Individual Child Complaints

§ 303.420 Administrative resolution of individual child complaints by an impartial decision-maker.

Each system must include written procedures for the timely administrative resolution of individual child complaints by parents concerning any of the matters in § 303.403(a). A State may meet this requirement by—

(a) Adopting the due process procedures in 34 CFR 300.506 through 300.512 and developing procedures that meet the requirements of § 303.425; or

(b) Developing procedures that—(1) Meet the requirements in §§ 303.421 through 303.425; and

(2) Provide parents a means of filing a complaint.

(Authority: 20 U.S.C. 1480(1))

Note 1: Sections 303.420 through 303.425 are concerned with the adoption of impartial procedures for resolving individual child complaints (i.e., complaints that generally affect only a single child or the child's family). These procedures require the appointment of a decision-maker who is impartial, as defined in § 303.421(b), to resolve a dispute concerning any of the matters in § 303.403(a). The decision of the impartial decision-maker is binding unless it is reversed on appeal.

A different type of administrative procedure is included in §§ 303.510 through 303.512 of Subpart F. Under those procedures, the lead agency is responsible for (1) investigating any complaint that it receives (including individual child complaints and those that are systemic in nature), and (2) resolving the complaint if the agency determines that a violation has occurred.

Note 2: It is important that the administrative procedures developed by a State be designed to result in speedy resolution of complaints. An infant's or toddler's development is so rapid that undue delay could be potentially harmful.

In an effort to facilitate resolution, States may wish, with parental concurrence, to offer mediation as an intervening step prior to implementing the procedures in this section. Although mediation is not required under either Part B or Part H of the Act, some States have reported that mediations conducted under Part B have led to speedy resolution of differences between parents and agencies, without the development of an adversarial relationship and with minimal emotional stress to parents.

While a State may elect to adopt a mediation process, the State cannot require that parents use that process. Mediation may not be used to deny or delay a parent's rights under this part. The complaint must be resolved, and a written decision made, within the 30-day timeline in § 303.423.

§ 303.421 Appointment of an impartial person.

(a) *Qualifications and duties.* An impartial person must be appointed to implement the complaint resolution process in this subpart. The person must—

(1) Have knowledge about the provisions of this part and the needs of, and services available for, eligible children and their families; and

(2) Perform the following duties:

(i) Listen to the presentation of relevant viewpoints about the complaint, examine all information relevant to the issues, and seek to reach a timely resolution of the complaint.

(ii) Provide a record of the proceedings, including a written decision.

(b) *Definition of impartial.* (1) As used in this section, "impartial" means that the person appointed to implement the complaint resolution process—

(i) Is not an employee of any agency or other entity involved in the provision of early intervention services or care of the child; and

(ii) Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process.

(2) A person who otherwise qualifies under paragraph (b)(1) of this section is not an employee of an agency solely because the person is paid by the agency to implement the complaint resolution process.

(Authority: 20 U.S.C. 1480(1))

§ 303.422 Parent rights in administrative proceedings.

(a) *General.* Each lead agency shall ensure that the parents of children eligible under this part are afforded the rights in paragraph (b) of this section in any administrative proceedings carried out under § 303.420.

(b) *Rights.* Any parent involved in an administrative proceeding has the right to—

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for children eligible under this part;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence at the proceeding that has not been disclosed to the parent at least five days before the proceeding;

(4) Obtain a written or electronic verbatim transcription of the proceeding; and

(5) Obtain written findings of fact and decisions.

(Authority: 20 U.S.C. 1480)

§ 303.423 Convenience of proceedings; timelines.

(a) Any proceeding for implementing the complaint resolution process in this subpart must be carried out at a time and place that is reasonably convenient to the parents.

(b) Each lead agency shall ensure that, not later than 30 days after the receipt of a parent's complaint, the impartial proceeding required under this subpart is completed and a written decision mailed to each of the parties.

(Authority: 20 U.S.C. 1480(1))

Note: Under Part B of the Act, States are allowed 45 days to conduct an impartial due process hearing (i.e., within 45 days after the receipt of a request for a hearing, a decision is reached and a copy of the decision is mailed to each of the parties). (See 34 CFR 300.512.) Thus, if a State, in meeting the requirements of § 303.420, elects to adopt the due process procedures under Part B, that State would also have 45 days for hearings. However, any State in that situation is encouraged (but not required) to accelerate the timeline for the due process hearing for children who are eligible under this part—from 45 days to the 30-day timeline in this section. Because the needs of children in the birth through two age range change so rapidly, quick resolution of complaints is important.

§ 303.424 Civil action.

Any party aggrieved by the findings and decision regarding an administrative complaint has the right to bring a civil action in State or Federal court under section 680(1) of the Act.

(Authority: 20 U.S.C. 1480(1))

§ 303.425 Status of a child during proceedings.

(a) During the pendency of any proceeding involving a complaint under this subpart, unless the public agency and parents of a child otherwise agree, the child must continue to receive the appropriate early intervention services currently being provided.

(b) If the complaint involves an application for initial services under this part, the child must receive those services that are not in dispute.

(Authority: 20 U.S.C. 1480(7))

Confidentiality

§ 303.460 Confidentiality of information.

(a) Each State shall adopt or develop policies and procedures that the State will follow in order to ensure the protection of any personally identifiable information collected, used, or maintained under this part, including the right of parents to written notice of and written consent to the exchange of this information among agencies consistent with Federal and State law.

(b) These policies and procedures must meet the requirements in 34 CFR 300.560 through 300.576, with the following modifications:

(1) Any reference to the *State educational agency* means the lead agency under this part.

(2) Any reference to *education of children with disabilities, education of all children with disabilities,* or *provision of free public education to all children with disabilities* means the provision of services to children eligible under this part and their families.

(3) Any reference to *local educational agencies* and *intermediate educational units* means local service providers.

(4) Any reference to 34 CFR 300.128 means §§ 303.164 and 303.321.

(5) Any reference to 34 CFR 300.129 means this section (§ 303.460).

(Authority: 20 U.S.C. 1480(2), 1483)

Note: With the modifications in paragraphs (b)(1) through (b)(5) of this section, the confidentiality requirements in the regulations implementing Part B of the Act (34 CFR 300.560 through 300.576) are to be used by public agencies to meet the confidentiality requirements under Part H of the Act and this section (§ 303.560).

The Part B provisions incorporate by reference the regulations in 34 CFR part 99 (Family Educational Rights and Privacy); therefore, those regulations also apply to this part.

Subpart F—State Administration

General

§ 303.500 Lead agency establishment or designation.

Each system must include a single line of responsibility in a lead agency that—

(a) Is established or designated by the Governor; and

(b) Is responsible for the administration of the system, in accordance with the requirements of this part.

(Authority: 20 U.S.C. 1476(b)(9))

§ 303.501 Supervision and monitoring of programs.

(a) *General.* Each lead agency is responsible for—

(1) The general administration and supervision of programs and activities receiving assistance under this part; and

(2) The monitoring of programs and activities used by the State to carry out this part, whether or not these programs or activities are receiving assistance under this part, to ensure that the State complies with this part.

(b) *Methods of administering programs.* In meeting the requirement in paragraph (a) of this section, the lead agency shall adopt and use proper methods of administering each program, including—

(1) Monitoring agencies, institutions, and organizations used by the State to carry out this part;

(2) Enforcing any obligations imposed on those agencies under Part H of the Act and these regulations;

(3) Providing technical assistance, if necessary, to those agencies, institutions, and organizations; and

(4) Correcting deficiencies that are identified through monitoring.

(Authority: 20 U.S.C. 1476(b)(9)(A))

Lead Agency Procedures for Resolving Complaints

§ 303.510 Adopting complaint procedures.

Each lead agency shall adopt written procedures for—

(a) Receiving and resolving any complaint that any public agency is violating a requirement of Part H of the Act or this part;

(b) Reviewing an appeal from a decision of a public agency with respect to a complaint;

(c) Conducting an independent on-site investigation of a complaint if the lead agency determines that an on-site investigation is necessary; and

(d) Informing parents and other interested individuals about the procedures in §§ 303.510 through 303.512.

(Authority: 20 U.S.C. 1476(b)(9))

Note: Because of the interagency nature of Part H of the Act, complaints received under these regulations could concern violations by (1) any public agency in the State that receives funds under this part (e.g., the lead agency and the Council), (2) other public agencies that are involved in the State's early intervention program, or (3) private service providers that receive Part H funds on a contract basis from a public agency to carry out a given function or provide a given service required under this part. These complaint procedures are in addition to any other rights under State or Federal law. Complaints under these procedures are filed with the lead agency.

§ 303.511 An organization or individual may file a complaint.

An individual or organization may file a written signed complaint with the lead agency. The complaint must include—

(a) A statement that the State has violated a requirement of Part H of the Act or the regulations in this part; and

(b) The facts on which the complaint is based.

(Authority: 20 U.S.C. 1476(b)(9))

§ 303.512 Minimum State complaint procedures.

Each lead agency shall include the following in its complaint procedures:

(a) A time limit of 60 calendar days after the agency receives a complaint to—

(1) Carry out an independent on-site investigation, if necessary;

(2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

(3) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part H of the Act or of this part; and

(4) Issue a written decision to the complainant that addresses each allegation in the complaint and contains—

(i) Findings of fact and conclusions; and

(ii) The reasons for the agency's final decision.

(b) An extension of the time limit under paragraph (a) of this section only if exceptional circumstances exist with respect to a particular complaint.

(c) Procedures for effective implementation of the agency's final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance.

(d) The right to request the Secretary to review the agency's final decision.

(Authority: 20 U.S.C. 1476(b)(9))

Policies and Procedures Related to Financial Matters

§ 303.520 Policies related to payment for services.

(a) *General.* Each lead agency is responsible for establishing State policies related to how services to children eligible under this part and their families will be paid for under the State's early intervention program. The policies must—

(1) Meet the requirements in paragraph (b) of this section; and

(2) Be reflected in the interagency agreements required in § 303.523.

(b) *Specific funding policies.* A State's policies must—

(1) Specify which functions and services will be provided at no cost to all parents;

(2) Specify which functions or services, if any, will be subject to a system of payments, and include—

(i) Information about the payment system and schedule of sliding fees that will be used; and

(ii) The basis and amount of payments; and

(3) Include an assurance that—(i) Fees will not be charged for the services that a child is otherwise entitled to receive at no cost to parents; and

(ii) The inability of the parents of an eligible child to pay for services will not

result in the denial of services to the child or the child's family; and

(4) Set out—(i) The fees that will be charged for early intervention services and the basis for those fees; or

(ii) If no fees will be charged for those services, an explanation of the State's determination not to charge fees, including a description of any analysis undertaken by the State in conjunction with this determination.

(c) *Procedures to ensure the timely provision of services.* No later than the beginning of the fifth year of a State's participation under this part, the State shall implement a mechanism to ensure that no services that a child is entitled to receive are delayed or denied because of disputes between agencies regarding financial or other responsibilities.

(Authority: 20 U.S.C. 1476(b)(9))

§ 303.521 Fees.

(a) *General.* A State may establish, consistent with § 303.12(a)(3)(iv), a system of payments for early intervention services, including a schedule of sliding fees.

(b) *Functions not subject to fees.* The following are required functions that must be carried out at public expense by a State, and for which no fees may be charged to parents:

(1) Implementing the child find requirements in § 303.321.

(2) Evaluation and assessment, as included in § 303.322, and including the functions related to evaluation and assessment in § 303.12.

(3) Service coordination, as included in §§ 303.22 and 303.344(g).

(4) Administrative and coordinative activities related to—

(i) The development, review, and evaluation of IFSPs in §§ 303.340 through 303.346; and

(ii) Implementation of the procedural safeguards in subpart E of this part and the other components of the statewide system of early intervention services in subparts D and F of this part.

(c) *States with mandates to serve children from birth.* If a State has in effect a State law requiring the provision of a free appropriate public education to children with disabilities from birth, the State may not charge parents for any services (e.g., physical or occupational therapy) required under that law that are provided to children eligible under this part and their families.

(Authority: 20 U.S.C. 1472(2))

§ 303.522 Identification and coordination of resources.

(a) Each lead agency is responsible for—

(1) The identification and coordination of all available resources for early intervention services within the State, including those from Federal, State, local, and private sources; and

(2) Updating the information on the funding sources in paragraph (a) (1) of this section, if a legislative or policy change is made under any of those sources.

(b) The Federal funding sources in paragraph (a)(1) of this section include—

(1) Title V of the Social Security Act (relating to Maternal and Child Health);

(2) Title XIX of the Social Security Act (relating to the general Medicaid Program, and EPSDT);

(3) The Head Start Act;

(4) Parts B and H of the Act;

(5) Subpart 2 of Part D of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965, as amended;

(6) The Developmental Disabilities Assistance and Bill of Rights Act (Pub. L. 94–103); and

(7) Other Federal programs.

(Authority: 20 U.S.C. 1476(b)(9)(B))

§ 303.523 Interagency agreements.

(a) *General.* Each lead agency is responsible for entering into formal interagency agreements with other State-level agencies involved in the State's early intervention program. Each agreement must meet the requirements in paragraphs (b) through (d) of this section.

(b) *Financial responsibility.* Each agreement must define the financial responsibility, in accordance with § 303.143, of the agency for paying for early intervention services (consistent with State law and the requirements of this part).

(c) *Procedures for resolving disputes.* (1) Each agreement must include procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to the State's early intervention program. Those procedures must include a mechanism for making a final determination that is binding upon the agencies involved.

(2) The agreement with each agency must—(i) Permit the agency to resolve its own internal disputes (based on the agency's procedures that are included in the agreement), so long as the agency acts in a timely manner; and

(ii) Include the process that the lead agency will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner.

(d) *Additional components.* Each agreement must include any additional components necessary to ensure effective cooperation and coordination among all agencies involved in the State's early intervention program.

(Authority: 20 U.S.C. 1476(b)(9)(C) and (b)(9)(F))

Note: A State may meet the requirement in paragraph (c)(1) of this section in any way permitted under State law, including (1) providing for a third party (e.g., an administrative law judge) to review a dispute and render a decision, (2) assignment of the responsibility by the Governor to the lead agency or Council, or (3) having the final decision made directly by the Governor.

§ 303.524 Resolution of disputes.

(a) Each lead agency is responsible for resolving individual disputes, in accordance with the procedures in § 303.523(c)(2)(ii).

(b)(1) During a dispute, the individual or entity responsible for assigning financial responsibility among appropriate agencies under § 303.143 ("financial designee") shall assign financial responsibility to—

(i) An agency, subject to the provisions in paragraph (b)(2) of this section; or

(ii) The lead agency, in accordance with the "payor of last resort" provisions in § 303.527.

(2) If, during the lead agency's resolution of the dispute, the financial designee determines that the assignment of financial responsibility under paragraph (b)(1)(i) of this section was inappropriately made—

(i) The financial designee shall reassign the responsibility to the appropriate agency; and

(ii) The lead agency shall make arrangements for reimbursement of any expenditures incurred by the agency originally assigned responsibility.

(c) To the extent necessary to ensure compliance with its action in paragraph (b)(2) of this section, the lead agency shall—

(1) Refer the dispute to the Council or the Governor; and

(2) Implement the procedures to ensure the delivery of services in a timely manner in accordance with § 303.525.

(Authority: 20 U.S.C. 1476(b)(9)(C) and (b)(9)(E))

§ 303.525 Delivery of services in a timely manner.

Each lead agency is responsible for the development of procedures to ensure that services are provided to eligible children and their families in a timely manner, pending the resolution of disputes among public agencies or service providers.

(Authority: 20 U.S.C. 1476(b)(9)(D))

§ 303.526 Policy for contracting or otherwise arranging for services.

Each system must include a policy pertaining to contracting or making other arrangements with public or private service providers to provide early intervention services. The policy must include—

(a) A requirement that all early intervention services must meet State standards and be consistent with the provisions of this part;

(b) The mechanisms that the lead agency will use in arranging for these services, including the process by which awards or other arrangements are made; and

(c) The basic requirements that must be met by any individual or organization seeking to provide these services for the lead agency.

(Authority: 20 U.S.C. 1476(b)(10))

Note: In implementing the statewide system, States may elect to continue using agencies and individuals in both the public and private sectors that have previously been involved in providing early intervention services, so long as those agencies and individuals meet the requirements of this part.

§ 303.527 Payor of last resort.

(a) *Nonsubstitution of funds.* Except as provided in paragraph (b)(1) of this section, funds under this part may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source but for the enactment of Part H of the Act. Therefore, funds under this part may be used only for early intervention services that an eligible child needs but is not currently entitled to under any other Federal, State, local, or private source.

(b) *Interim payments—reimbursement.* (1) If necessary to prevent a delay in the timely provision of services to an eligible child or the child's family, funds under this part may be used to pay the provider of services, pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

(2) Payments under paragraph (b)(1) of this section may be made for—

(i) Early intervention services, as described in § 303.12;

(ii) Eligible health services (see § 303.13); and

(iii) Other functions and services authorized under this part, including child find and evaluation and assessment.

(3) The provisions of paragraph (b)(1) of this section do not apply to medical services or "well-baby" health care (see § 303.13(c)(1)).

(c) *Non-reduction of benefits.* Nothing in this part may be construed to permit a State to reduce medical or other assistance available or to alter eligibility under Title V of the Social Security Act (SSA) (relating to maternal and child health) or Title XIX of the SSA (relating to Medicaid for children eligible under this part) within the State.

(Authority: 20 U.S.C. 1481)

Note: The Congress intended that the enactment of Part H not be construed as a license to any agency (including the lead agency and other agencies in the State) to withdraw funding for services that currently are or would be made available to eligible children but for the existence of the program under this part. Thus, the Congress intended that other funding sources would continue, and that there would be greater coordination among agencies regarding the payment of costs.

The Congress further clarified its intent concerning payments under Medicaid by including in section 411(k)(13) of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360) an amendment to Title XIX of the Social Security Act. That amendment states, in effect, that nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary of Health and Human Services to prohibit or restrict, payment under subsection (a) of section 1903 of the Social Security Act for medical assistance for covered services furnished to an infant or toddler with a disability because those services are included in the child's IFSP adopted pursuant to Part H of the Act.

§ 303.528 Reimbursement procedure.

Each system must include a procedure for securing the timely reimbursement of funds used under this part, in accordance with § 303.527(b).

(Authority: 20 U.S.C. 1476(b)(11))

Reporting Requirements

§ 303.540 Data collection.

(a) Each system must include the procedures that the State uses to compile data on the statewide system. The procedures must—

(1) Include a process for—(i) Collecting data from various agencies and service providers in the State;

(ii) Making use of appropriate sampling methods, if sampling is permitted; and

(iii) Describing the sampling methods used, if reporting to the Secretary; and

(2) Provide for reporting the data required under section 676(b)(14) of the Act, and other information that the Secretary may require, including information required under section 618 of the Act.

(b) The information required in paragraph (a)(2) of this section must be provided at the time and in the manner specified by the Secretary.

(Authority: 20 U.S.C. 1476(b)(14))

Use of Funds for State Administration

§ 303.560 Use of funds by the lead agency.

A lead agency may use funds under this part that are reasonable and necessary for administering the State's early intervention program for infants and toddlers with disabilities.

(Authority: 20 U.S.C. 1473, 1476(b)(9))

Subpart G—State Interagency Coordinating Council

General

§ 303.600 Establishment of Council.

(a) A State that desires to receive financial assistance under this part shall establish a State Interagency Coordinating Council composed of at least 15 members but not more than 25 members, unless the State provides sufficient justification for a greater number of members in the application submitted under this part.

(b) The Council must be appointed by the Governor. The Governor shall ensure that the membership of the Council reasonably represents the population of the State.

(c) The Governor shall designate a member of the Council to serve as the chairperson of the Council or require the Council to do so. Any member of the Council who is a representative of the lead agency designated under § 303.500 may not serve as the chairperson of the Council.

(Authority: 20 U.S.C. 1482(a))

Note: To avoid a potential conflict of interest, it is recommended that parent representatives who are selected to serve on the Council not be employees of any agency involved in providing early intervention services.

It is suggested that consideration be given to maintaining an appropriate balance between the urban and rural communities of the State.

§ 303.601 Composition.

(a) The Council must be composed as follows:

(1)(i) At least 20 percent of the members must be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities.

(ii) At least one member must be a parent of an infant or toddler with a disability or a child with a disability aged six or younger.

(2) At least 20 percent of the members must be public or private providers of early intervention services.

(3) At least one member must be from the State legislature.

(4) At least one member must be involved in personnel preparation.

(5) At least one member must—(i) Be from each of the State agencies involved in the provisions of, or payment for, early intervention services to infants and toddlers with disabilities and their families; and

(ii) Have sufficient authority to engage in policy planning and implementation on behalf of these agencies.

(6) At least one member must—(i) Be from the State educational agency responsible for preschool services to children with disabilities; and

(ii) Have sufficient authority to engage in policy planning and implementation on behalf of that agency.

(7) At least one member must be from the agency responsible for the State governance of insurance, especially in the area of health insurance.

(b) The Council may include other members selected by the Governor, including a representative from the BIA or, where there is no school operated or funded by the BIA, from the Indian Health Service or the tribe or tribal council.

(Authority: 20 U.S.C. 1482(b))

§ 303.602 Use of funds by the Council.

(a) *General.* Subject to the approval by the Governor, the Council may use funds under this part—

(1) To conduct hearings and forums;

(2) To reimburse members of the Council for reasonable and necessary expenses for attending Council meeting and performing Council duties (including child care for parent representatives);

(3) To pay compensation to a member of the Council if the member is not employed or must forfeit wages from other employment when performing official Council business;

(4) To hire staff; and

(5) To obtain the services of professional, technical, and clerical personnel, as may be necessary to carry out the performance of its functions under this part.

(b) *Compensation and expenses of Council members.* Except as provided in paragraph (a) of this section, Council members shall serve without compensation from funds available under this part.

(Authority: 20 U.S.C. 1479; 1482 (c) and (d))

§ 303.603 Meetings.

(a) The Council shall meet at least quarterly and in such places as it deems necessary.

(b) The meetings must—(1) Be publicly announced sufficiently in advance of the dates they are to be held to ensure that all interested parties have an opportunity to attend; and

(2) To the extent appropriate, be open and accessible to the general public.

(c) Interpreters for persons who are deaf and other necessary services must be provided at Council meetings, both for Council members and participants. The Council may use funds under this part to pay for those services.

(Authority: 20 U.S.C. 1482 (c) and (d))

§ 303.604 Conflict of interest.

No member of the Council may cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest.

(Authority: 20 U.S.C. 1482(f))

Functions of the Council

§ 303.650 General.

(a) Each Council shall—(1) Advise and assist the lead agency in the development and implementation of the policies that constitute the statewide system;

(2) Assist the lead agency in achieving the full participation, coordination, and cooperation of all appropriate public agencies in the State;

(3) Assist the lead agency in the effective implementation of the statewide system, by establishing a process that includes—

(i) Seeking information from service providers, service coordinators, parents, and others about any Federal, State, or local policies that impede timely service delivery; and

(ii) Taking steps to ensure that any policy problems identified under paragraph (a)(3)(i) of this section are resolved; and

(4) To the extent appropriate, assist the lead agency in the resolution of disputes.

(b) Each Council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children aged birth to five, inclusive.

(Authority: 20 U.S.C. 1482(e)(1)(A) and (e)(2))

§ 303.651 Advising and assisting the lead agency in its administrative duties.

Each Council shall advise and assist the lead agency in the—

(a) Identification of sources of fiscal and other support for services for early intervention programs under this part;

(b) Assignment of financial responsibility to the appropriate agency; and

(c) Promotion of the interagency agreements under § 303.523.

(Authority: 20 U.S.C. 1482(e)(1)(A))

§ 303.652 Applications.

Each Council shall advise and assist the lead agency in the preparation of applications under this part and amendments to those applications.

(Authority: 20 U.S.C. 1482(e)(1)(B))

§ 303.653 Transitional services.

Each Council shall advise and assist the State educational agency regarding the transition of toddlers with disabilities to services provided under Part B of the Act, to the extent those services are appropriate.

(Authority: 20 U.S.C. 1482(e)(1)(C))

§ 303.654 Annual report to the Secretary.

(a) Each Council shall—(1) Prepare an annual report to the Governor and to the Secretary on the status of early intervention programs operated within the State for children eligible under this part and their families; and

(2) Submit the report to the Secretary by a date that the Secretary establishes.

(b) Each annual report must contain the information required by the Secretary for the year for which the report is made.

(Authority: 20 U.S.C. 1482(e)(1)(D))

Existing Councils

§ 303.670 Use of existing councils.

If a State established a Council before September 1, 1986, that is comparable to the requirements for a Council in this subpart (e.g., in terms of its composition, meetings, and functions), that Council is considered to be in compliance with these requirements. However, within four years after the date that a State accepts funds under this part, the State shall establish a Council that complies in full with the requirements of this subpart.

(Authority: 20 U.S.C. 1482(g))

[FR Doc. 92-9858 Filed 4-30-92; 8:45 am]

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federal register

Friday
May 1, 1992

Part IV

Department of Education

Dwight D. Eisenhower National Program for Mathematics and Science Education—State Curriculum Frameworks for Mathematics and Science; Notice

DEPARTMENT OF EDUCATION

Dwight D. Eisenhower National Program for Mathematics and Science Education—State Curriculum Frameworks for Mathematics and Science

AGENCY: Department of Education.

ACTION: Notice of proposed priorities for fiscal years 1992 and 1993.

SUMMARY: The Secretary proposes priorities for fiscal years 1992 and 1993 for projects that will assist in the development and implementation of State curriculum frameworks, kindergarten through grade 12 (K–12), together with new approaches to teacher education and certification appropriate to the frameworks.

The Secretary takes this action to focus Federal financial assistance on State curriculum frameworks as the starting point for systemic school improvement in mathematics and science education.

DATES: Comments must be received on or before June 1, 1992.

ADDRESSES: All comments concerning this proposed priority should be addressed to Paul Gagnon, U.S. Department of Education, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208–5524.

FOR FURTHER INFORMATION CONTACT: Allen Schmieder or Becky Wilt, U.S. Department of Education, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208–5524. Telephone: (202) 219–1496. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The Eisenhower National Program for Mathematics and Science Education supports projects of national significance in mathematics and science instruction at the elementary and secondary levels. One of the six National Education Goals calls for U.S. students to be first in the world in mathematics and science achievement by the year 2000. The President's AMERICA 2000 strategy for helping the Nation achieve the goals calls for the creation of world-class national standards for student achievement in the five core subjects, including mathematics and science, and for a system of improved assessments tied to the standards.

The National Council on Education Standards and Testing (NCEST), a congressionally-created group of 32 individuals charged with investigating the desirability and feasibility of standards and improved assessments, issued its report in January 1992. The report called for the development of national standards and a national system of voluntary assessments as an urgently needed first step in reforming American education.

Standards for mathematics have been developed by the National Council of Teachers of Mathematics. Substantial progress in developing world-class standards in science has also been made under the leadership of such organizations as the National Science Teachers Association and the American Association for the Advancement of Science. The National Academy of Sciences began a project in the fall of 1991 to complete the development of standards for the sciences.

World-class standards that define what students should know and be able to do in the subject areas of math and science provide the foundation for systemic reform. State curriculum frameworks serve as the bridge between these standards and the classroom by providing guidelines for the content of the curriculum and for how that content should be organized and presented. They provide the guidelines for curriculum and course design at the district, school, and classroom levels.

Defining what students in a State should learn is a critical step in the process of ensuring that the State's students are prepared to meet world-class standards. Engaging more and more States in this process will help to achieve national consensus on world-class standards for American students and will prepare the way for all students to reach these standards. States must participate as lead agents in the design of these and related activities because they bear central responsibility in matters of education, and are best placed to coordinate efforts to raise general standards, to disseminate curricular frameworks, to influence new directions in teacher education and professional development, and to establish appropriate criteria for teacher certification.

States, or States working with other entities of their own choice, may apply for funding to support a project in either math or science or both. But in every case, the development of a curricular framework must be accompanied by closely-related plans for teacher education and certification as well as for professional development and recertification.

The Secretary notes that this priority is consistent with, and complementary to, the National Science Foundation's (NSF) Statewide Systemic Initiative. Whereas the NSF Initiative embraces a comprehensive array of approaches, this priority for the Eisenhower National Program directly focuses on the development of coherent, integrated K–12 curricula consistent with national standards, and on specified programs for teacher education and certification needed to implement those curricula.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priorities, and the quality of the applications received. The publication of these proposed priorities do not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

Priorities

Under 34 CFR 75.105(c)(3) and 34 CFR 755.12(c) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

State Curriculum Frameworks for Mathematics and Science Education

Projects in which States, or States in collaboration with other entities, carry out all the following activities:

(a) Develop a State curriculum framework, kindergarten through grade 12 (K–12), that reflects world-class standards and will be made available for local schools and districts to implement, or to adapt, for themselves. These frameworks must cover mathematics or science or both disciplines. The frameworks must embody coherent, non-repetitive curricula carefully designed to ensure that all children study challenging subject material in every grade, K–12. Frameworks must build upon the standards developed by the National Council of Teachers of Mathematics and emerging science standards in major curriculum reform projects, including the National Science Teachers Association's Scope, Sequence, and Coordination project, the American Association for

the Advancement of Science's Project 2061—Science for All Americans, and the work of the Mathematical Sciences Education Board and the National Academy of Sciences. The design of these frameworks must involve college and university scholars and specialists as well as teachers and administrators from public or private schools working together as equal collaborators.

(b) Develop model guidelines for effective approaches to teacher education and certification based upon the world-class standards and the State curriculum framework tied to those world-class standards. The model guidelines must be developed in cooperation with one or more institutions of higher education in the State. The collaborative work of designing these model guidelines must also involve scholars and specialists, school teachers, and school administrators from public or private schools.

(c) Develop criteria for teacher recertification, and design and pilot test a model, cost-effective inservice professional development program for teachers based upon the world-class standards and the State curriculum framework tied to those standards. Again, the work of designing these programs must involve collaboration among scholars and specialists, school teachers, and school administrators from public or private schools. In addition, these programs must be pilot tested in a variety of schools throughout the State.

(d) Provide the Secretary with a copy of the evaluation conducted under 34 CFR 75.590.

To guide the activities of the project, each project must establish an overall advisory committee that includes classroom teachers, university scholars in mathematics and science, State and local school administrators, representatives of private schools, specialists in teacher education, representatives of the State legislature, the Governor's office, and State and local boards of education, and representatives of business, labor, industry, and the community at large.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 522, 555 New Jersey Avenue, NW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR part 755.

Program Authority: 20 U.S.C. 2992.

Catalog of Federal Domestic Assistance Number 84.168, Dwight D. Eisenhower National Program for Mathematics and Science Education

Dated: April 27, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92-10165 Filed 4-30-92; 8:45 am]

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Federal Register

Friday
May 1, 1992

Part V

Department of Education

Training Personnel for the Education of Individuals With Disabilities; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.029]

Training Personnel for the Education of Individuals With Disabilities; Inviting Applications for Fiscal Year (FY) 1992

Note to Applicants

This notice a complete application package. Together with the statute authorizing the programs and applicable regulations governing the programs, including the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under these competitions.

The Parent Training and Information Centers and the Grants for Personnel Training support AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by improving services for infants, toddlers, children, and youth with disabilities and by so doing helping them to reach the high levels of achievement called for the National Education Goals. National Education Goal 1 calls for all children to start school ready to learn, and National Education Goal 3 calls for American students to demonstrate competency in challenging subject matter and to learn to use their minds well.

Training Personnel for Individuals With Disabilities—Parent Training and Information Centers

Purpose of Program

The purpose of the parent training and information program under section 631(d) of the Individuals with Disabilities Education Act (IDEA) is to provide training and information to parents of children (infants, toddlers, children, and youth) with disabilities, and to persons who work with parents to enable parents to participate more fully and effectively with professionals in meeting the educational needs of their children with disabilities. The 1990 Amendments to IDEA added authority for the establishment of five experimental parent training centers.

Funds may also be spent under section 631(d) for establishing, developing, and coordinating parent training and information programs (technical assistance projects).

Eligible Applicants: The legislation places no restrictions on applicant eligibility for either experimental parent training centers or for technical assistance to parent projects.

TRAINING PERSONNEL FOR INDIVIDUALS WITH DISABILITIES—PARENT TRAINING AND INFORMATION CENTERS

[Application Notice for Fiscal Year 1992]

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds	Estimated range of awards (per year)	Estimated size of awards (per year)	Estimated number of awards	Project period in months
Technical Assistance to Parent Projects (84.029R).	6-15-92	8-17-92	$1,200,000	$1,200,000	$1,200,000	1	Up to 60.
Experimental Parent Training Centers (84.029P).	6-15-92	8-17-92	125,000	10,000-30,000	25,000	5	Up to 36.

Applicable Regulations

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations for this program in 34 CFR part 316.

Priorities

Under 34 CFR 75.105(c)(3) and sections 631(d) (8) and (9) of the Individuals with Disabilities Education Act the Secretary gives an absolute preference to applications that meet the following priorities. The Secretary funds under these competitions only applications that meet these absolute priorities:

Absolute Priority 1—Technical Assistance to Parent Projects

This priority is for support of one project to provide technical assistance for establishing, developing, and coordinating parent training and information programs.

Absolute Priority—Experimental Parent Training Centers

This priority supports the establishment of three experimental centers to serve large numbers of parents of children with disabilities located in high density areas that do not have such centers, and two such centers to serve large numbers of parents of children with disabilities located in rural areas.

Selection Criteria

(a)(1) The Secretary uses the following selection criteria to evaluate applications for new grants under these competitions.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria*—(1) *Extent of present and projected needs.* (15 points) The Secretary reviews each application to determine the extent to which the project makes an impact on parent training and information needs, consistent with the purposes of the Act, including consideration of the impact on—

(i) The present and projected needs in the applicant's geographic area for trained parents; and

(ii) The present and projected training and information needs for personnel to work with parents of children with disabilities.

(2) *Anticipated project results.* (25 points) The Secretary reviews each application to determine the extent to

which the project will assist parents to—

(i) Understand the nature and needs of the disabling conditions of their children;

(ii) Provide follow-up support for their children's educational program;

(iii) Communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals;

(iv) Participate fully in educational decisionmaking processes, including the development of their child or youth's individualized educational program;

(v) Obtain information about the programs, services, and resources available to their children and the degree to which the programs, services, and resources are appropriate to the needs of their children; and

(vi) Understand the provisions for educating children with disabilities under the Act.

(3) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) High quality in the design of the project;

(ii) An effective management plan that ensures proper and efficient administration of the project;

(iii) How the objectives of the project relate to the purpose of the program; and

(iv) The way the applicant plans to use its resources and personnel to achieve each objective.

(4) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate for the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable. (See 34 CFR 75.590, Evaluation by the grantee.)

5. *Quality of key personnel.* (15 points) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used on the project;

(iii) The time that each of the key personnel plans to commit to the project;

(iv) How the applicant, as a part of its nondiscriminatory practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability; and

(v) Evidence of the applicant's past experience and training in the fields relating to the objectives of the project.

(6) *Budget and cost-effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

Training Personnel for the Education of Individuals With Disabilities—Grants for Personnel Training

Purpose of Program

The purpose of the Grants for Personnel Training program under sections 631 (a) and (b) of the Individuals with Disabilities Education Act (IDEA) is to increase the quantity and improve the quality of personnel available to serve infants, toddlers, children and youth with disabilities.

Eligible Applicants: Institutions of higher education, State agenices, and other appropriate nonprofit agencies are eligible applicants for the special projects awards authorized under section 631(b) of IDEA.

TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES—GRANTS FOR PERSONNEL TRAINING

[Application Notice for Fiscal Year 1992]

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds	Estimated range of awards (per year)	Estimated size of awards (per year)	Estimated number of awards	Project period in months
Special Projects (84.029K3)	6-15-92	8-17-92	$2,500,000	$60,000-90,000	$75,000	33	Up to 36.

Applicable Regulations

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations for this program in 34 CFR part 318.

Priorities

Absolute Priority: Under 34 CFR 75.105(c)(3), 34 CFR 318.1(c) and 34 CFR 318.11(e) the Secretary gives an absolute perference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Special Projects

(1) This priority supports projects that include development, evaluation, and distribution of innovative approaches to personnel preparation; development of curriculum materials to prepare personnel to educate or provide early intervention services; and other projects of national significance related to the preparation of personnel needed to serve infants, toddlers, children, and youth with disabilities.

(2) Appropriate areas of interest include—

(i) Preservice training programs to prepare regular educators to work with children and youth with disabilities and their families;

(ii) Training teachers to work in community and school settings with

children and youth with disabilities and their families;

(iii) Inservice and preservice training of teachers to work with infants, toddlers, children, and youth with disabilities and their families;

(iv) Inservice and preservice training of personnel to work with minority infants, toddlers, children, and youth with disabilities and their families;

(v) Preservice and inservice training of special education and related services personnel in instructive and assistive technology to benefit infants, toddlers, children, and youth with disabilities; and

(vi) Recuritment and retention of special education, related services, and early intervention personnel.

(3) Both inservice and preservice training must include a component that addresses the coordination among all service providers, including regular edcuators.

Invitational Priorities

Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priorities. However, under 34 CFR 75.1059(c)(1) an application that meets these invitational priorities does not receive a competitive or absolute preference over other applications that do not meet these invitational priorities:

Attention Deficit Disorder (ADD)

Projects to devise new inservice and preservice training strategies for special education and regular classroom teachers and administrators to address the needs of children with ADD. The purpose is not to develop distinct categorical programs for training personnel to teach children with ADD, but rather to enhance the skills of general and special education teachers and administrators to better serve this population of students. It is recommended that these strategies be infused into personnel preparation programs of national organizations serving regular and special education personnel.

Training Interpreters for Children With Hearing Impairments, Including the Deaf

Projects that train educational interpreters for children with hearing impairments, including deafness. Projects are encouraged to demonstrate recruitment strategies, specifically adapted curricula, and incentives designed to increase the probability of program graduates' functioning productively as interpreters in instructional settings. Projects are also encouraged to concentrate on student support, rather than on basic institutional support.

Preparing Personnel To Meet the National Education Goals

Projects that develop or expand innovative preservice and inservice training programs that are designed to provide personnel serving children with disabilities with skills that are needed to help schools meet the National Education Goals.

These projects are encouraged to promote:

(1) Increased collaboration among special education, regular education, bilingual education, migrant education, vocational education, and public and private agencies and institutions.

(2) Improved coordination of services among health and social services agencies and within communities regarding services for children with disabilities and their families.

(3) Increased systematic parental involvement in the education of their children with disabilities.

(4) Inclusion of children with disabilities in all aspects of education and society.

(5) Training that is designed to enable special education teachers to teach, as appropriate, to world class standards as they are developed, such as those developed by the National Council on Teachers of Mathematics.

Selection Criteria

(a)(1) The Secretary uses the following selection criteria to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria.*—(1) *Anticipated project results.* (20 points) The Secretary reviews each application to determine the extent to which the project will meet present and projected needs under Parts B and H of the Act in special education, related services, or early intervention services personnel development.

(2) *Program content.* (20 points) The Secretary reviews each application to determine—

(i) The project's potential for national significance, its potential for replication and effectiveness, and the quality of its plan for dissemination of the results of the project;

(ii) The extent to which substantive content and organization of the program—

(A) Are appropriate for the attainment of knowledge that is necessary for the provision of quality educational and early intervention services to infants, toddlers, children, and youth with disabilities; and

(B) Demonstrate an awareness of relevant methods, procedures, techniques, technology, and instructional media or materials that can be used in the development of a model to prepare personnel to serve infants, toddlers, children, and youth with disabilities; and

(iii) The extent to which program philosophy, objectives, and activities are related to the educational or early intervention needs of infants, toddlers, children, and youth with disabilities.

(3) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) How the objectives of the project relate to the purpose of the program; and

(iv) The way the applicant plans to use its resources and personnel to achieve each objective.

(4) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate for the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable. (See 34 CFR 75.590, Evaluation by the grantee.)

(5) *Quality of key personnel.* (15 points) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each of the key personnel plans to commit to the project;

(iv) How the applicant, as a part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability; and

(v) Evidence of the applicant's past experience and training in fields related to the objectives of the project.

(6) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(7) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on September 17, 1990 (55 FR 38210 and 38211).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the dates indicated in this notice to the following address: The Secretary, Executive Order 12372—CFDA #84.029____, U.S. Department of Education, room 4161, 400 Maryland Avenue, SW., Washington, DC 20202-0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

INSTRUCTIONS FOR TRANSMITTAL OF APPLICATIONS:

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.029____), Washington, DC 20202-4725.

or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.029____), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708-0494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instruction and Forms:

The appendix to this application is divided into three parts plus a section on common questions and answers, a statement regarding estimated public reporting burden, and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted applications should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4-88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80-0013).

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80-0014, 9/90) and instructions.

(Note: ED 80-0014 is intended for the use of grantees and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL-A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: Max Mueller, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-2651. Telephone: (202) 732-1554. Deaf and hard of hearing individuals may call (202) 732-1100 for TDD services.

Authority: 20 U.S.C. 1431.

Dated: April 24, 1992.

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

Appendix

Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this section. Applicants are required to submit an original and two copies of each application as provided in this section.

Common Questions and Answers

While we have always made every effort to make our application materials as clear and complete as possible, a major task of Division of Personnel Preparation staff from the date of the program announcement to the closing date is answering phone and mail requests with further questions. The

next several pages list some of the most common issues raised by potential applicants in interpreting our regulations and application instructions.

The following issues are not hypothetical. They represent concerns repeatedly raised, even though in many cases they are answered in the regulations or application instructions. The problem seems to be that the issues are not sufficiently highlighted, or that they are disguised by the formal language of legislative documents. These issues and general responses are listed in approximately the frequency of occurrence.

• Extension of Deadlines

Waivers for individual applications are not granted, regardless of the circumstances. Under very extraordinary circumstances a closing date may be changed. Such changes are announced in the **Federal Register** and apply to *all* applications.

• Copies of the Application

Current Government-wide policy is that only an original and two copies need to be submitted. Division staff duplicate the two additional copies necessary to complete the review process by staff and peer readers. It is not required that applications be bound, though they may be if you wish. However, to facilitate our reproduction, please leave one copy unbound. Also, please do not use colored paper, foldouts, photographs, or other hard to duplicate materials. Some applicants prefer to make their own additional copies. If you do so, there is no need to submit more than two additional copies, as that is all that will be required for the review process.

• Help Preparing Applications

We are happy to provide general program information. Clearly it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about our application requirements and evaluation criteria, or about the announced priority. Applicants should understand that such previous contact is not required, nor does it guarantee the success of an application.

• Notification of Funding

The time required to complete the evaluation of applications is extremely variable. Once applications have been received staff must determine the areas of expertise needed to appropriately evaluate the applications, identify and contact potential reviewers, convene peer review panels, and summarize and review the recommendations of the review panels. You can expect to receive notification within 1 to 2 months of the application closing date. The requested start date should therefore be a minimum of 2 months after the closing date.

• Possibility of Learning the Outcome of Review Panels Prior to Official Notification

Every year we are called by a number of applicants who have really legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, etc. Regardless of the reason, we cannot share information about the review with anyone prior to officially completing the review process for a competition, nor can we tell you when you will be notified. Please do not call us and ask us for this information. You will be notified as quickly as possible either by a grant negotiator (if your application is recommended for funding) or through a letter to the certifying representative (if your application is not successful).

• Length of Application

The Department of Education is making a concerted effort to reduce the volume of paper work in applications to discretionary programs. The following suggestions should assist applicants to prepare applications which will convey the information necessary for the review and selection process, and also save America's forests, professional time and energy. The scope and complexity of projects are too variable to establish firm limits on length. Your application should provide enough information to allow the review panel to evaluate the importance and impact of the project as well as to make knowledgeable judgments about the methods you propose to use (design, subjects, sampling procedures, measures, instruments, data analysis strategies, etc.). Many applications include voluminous appended material. In most cases this material is *not* useful in the evaluation process. Very few projects require much supporting material. However, it is often helpful to have:

(1) Staff vitae. When these include each person's title and role in the proposed project an contain only information that is relevant to this proposed project's activities and/or publications. Vitae for consultants and Advisory Council members should be similarly brief.

(2) Instruments. Except in the case of generally available and well known instruments.

(3) Agreements. When the participation of an agency other than the applicant is critical to the project. This is particularly critical when an intervention will be implemented within an agency, or when subjects will be drawn from particular agencies. Letters of cooperation should be specific, indicating agreement to implement a particular intervention or to provide access to a particular group. General letters of support are *not* useful. Except for the three items noted above, most appendix material is rarely useful. Typical extraneous materials include:

(1) Related project descriptions completed by applicant.

(2) Maps.

(3) State plans.

(4) Brochures.

(5) Copies of publications.

• Use of person loading charts: Program officials and applicants often find person loading charts useful formats for showing project personnel and their time commitments to individual activities. A person loading chart is a tabular representation of major activities by number of days spent by each person involved in each activity, as shown in the following example.

TABLE #.—PERSON LOADING CHART

Activity	Time in day(s) by person[1]			
	Person A	Person B	Person C	Person D
Program Development	15	20	0	0
Mentoring	0	0	0	5
Research	5	25	0	0
Information Services	0	2	0	0
Dissemination (manuscripts, etc.)	0	1	20	10

[1] Note: All figures represent FTE for the academic year.

• Return of non-funded applications: Because of budget restrictions, we are no longer able to return original copies of applications. Thus, applicants should retain at least one copy of the application. Copies of reviewer comments will be mailed to all applicants.

• Delivering/sending applications to the competition manager: Applications can be mailed or hand delivered, but in either case must go to the Application Control Center at the address listed in the Mailing Instructions in this packet. Delivering/sending the application to the competition manager in the program

office may prevent it from being logged in on time to the appropriate competition.

• Format for applications: Applications are more likely to receive favorable reviews by panels when they are organized according to the published evaluation criteria. If you prefer to use a different format you may wish to cross-reference the sections of your application to the evaluation criteria to be sure that reviewers are able to find all relevant information.

• Allowed travel under these projects: Travel associated with carrying out the project is allowed (i.e. travel for data collection, etc.). Travel to conferences is the travel item that is most likely to be questioned during negotiations. Such travel is sometimes allowed when it is for purposes of dissemination, when there will be results to be disseminated, and when it is clear that a conference presentation or workshop is an effective way of reaching a particular target group.

• Funding of approved applications: It is often the case that the number of applications recommended for approval by the reviewers exceeds the dollars available for funding projects under a particular competition. When the panel reviews are completed for a particular competition, the individual reviewer scores and applications are ranked. The higher ranked, approved applications are funded first, and there are often lower ranked, approved applications that do not receive funding. Sometimes the one or two applications that are approved and fall next in rank order (after the projects selected for funding) are placed on hold. If dollars are freed up during negotiations or if a higher ranked applicant declines the award, the projects on hold may receive funding. If you receive a letter stating that you will not receive funding then your project has neither been selected for funding nor placed on hold.

• Issues raised during negotiations: During negotiations technical and budget issues may be raised. These are issues that have been identified during panel and staff review. Generally, technical issues are minor issues that require clarification. Alternative approaches may be presented for your consideration, or you may be asked to provide additional information or rationale for something you have proposed to do. Sometimes issues are stated as "conditions". These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions are also raised about proposed budget during the negotiation phase. Generally, budget issues are raised because there is inadequate justification or explanation of the particular budget item, or because the budget item does not seem important to the successful completion of the project. The grants negotiator will present the negotiation questions or issues to you and ask you to respond. If you do not understand the question, you should ask for clarification. In responding to negotiation items you should provide any additional information or clarification requested. You may feel that an issue was addressed in the application. It may not, however, have been explained in enough detail to make it understood by reviewers, and more information should be provided. If you are asked to make changes that you feel could seriously affect the project's success you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the activities you may want to explain why and provide additional justification for the proposed expenses. Your changes, explanations, and alternative suggestions will be carefully evaluated by staff. In some instances additional negotiations or follow-up information may be needed. In such instances you will again be contacted by the grants negotiator. An award cannot be made until all negotiation issues have been resolved.

• Sucessful applications and estimated/projected Budget amounts in subsequent years: In this era of budget deficits and need for cost containment, a conservative policy toward current and out-year budget expenditures is necessary. Projects will not be funded in excess of the amount listed in the Federal Register announcement. Any project approved by the reviewers that exceeds the estimated size of award will be required to be performed within the announced amount. The budget estimates that you provide in your applicaion for out-year costs are critical for planning purposes, but they in no way represent a commitment by the Department to a particular level of funding in subsequent years. Budget modifications during the negotiation process, the findings from the initial year, or needed changes in the research design can affect your budget requirements in subsequent years. However, keep in mind that multi-year projects are likely to be level funded unless there are increases in costs attributable to significant changes in activity level. Grantees having multi-year projects will be asked to submit a continuation application and a detailed budget request prior to each year of the project.

• Difference between a cooperative agreement and a grant: A cooperative agreement is similar to a grant in that its principal purpose is to accomplish a public purpose of support or stimulation as authorized by a Federal statute. It differs from a grant in the sense that in a cooperative agreement substantial involvement is anticipated between the executive agency (in this case the Department of Education) and the recipient during the performance of the contemplated activity.

• Obtaining copies of the Federal Register, program regulations and Federal statutes: Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783–3238.

Application Narrative and Instructions

Applications are more likely to receive favorable reviews by panels when they are organized according to the published evaluation criteria found elsewhere in this packet. If you prefer to use a different format you may wish to cross-reference the sections of your application to the evaluation criteria to ensure that reviewers are able to find all relevant information.

The following is a suggested format you may wish to use in preparing your application. This suggested format is advisory only, since the scope and complexity of projects is too variable to establish firm limits on length and format. In your application you may wish to include the following features in the order listed below:

(a) An abstract of the project;

(b) The extent the project meets the purposes of the authorizing statute;

(c) The extent the project meets specific needs recognized in the statute that authorizes the program;

(d) The plan of operation which the applicant proposes to use to administer the project;

(e) The quality of key personnel to be used to achieve each objective;

(f) Budget and cost effectiveness to achieve the proposed activity;

(g) The evaluation plan to evaluate the project; and

(h) The adequacy of resources available and needed to achieve each objective.

BILLING CODE 4000-01-M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED		Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.)

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invited comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 42 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of the information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820–0028, Washington, DC 20503.

(Information collection approved under OMB Control number 1820–0028. Expiration date: 11/30/92).

New Grants

Before preparing the Application Narrative an applicant should read carefully the description of the program, the information regarding priorities, and the selection criteria the Secretary uses to evaluate applications.

The application narrative should be organized to follow the exact sequence of the components in the selection criteria of the regulations pertaining to the specific program competition for which the application is prepared. In each instance, a table of contents and a one-page abstract summarizing the objectives, activities, and project outcomes of the proposed project should precede the application narrative.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an abstract; that is, a summary of the proposed project;

2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package; and

3. Include any other pertinent information that might assist the Secretary in reviewing the application.

Note: The application narrative should not exceed 30 double-spaced typed pages (on one side only).

BILLING CODE 4000-01-M

OMB Approval No 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

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2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

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3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:	13. Type of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply)*: ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

Authorized for Local Reproduction
Standard Form - LLL-A

federal register

Friday
May 1, 1992

Part VI

Federal Emergency Management Agency

Mortgage Portfolio Protection Program; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Mortgage Portfolio Protection Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Notice.

SUMMARY: This notice updates the list of Write Your Own (WYO) companies participating in the Mortgage Portfolio Protection Program (MPPP) by republishing this list. This notice is necessary to inform the public of additional WYO companies that lending institutions, mortgage servicing companies, and others servicing mortgage loan portfolios can contact in order to secure flood insurance coverage and thereby bring their mortgage loan portfolios into compliance with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973. The intended effect of this notice is to make the public, particularly those involved in mortgage servicing activity, aware of the additional WYO companies to which they can look for assistance in meeting their statutory duty to ensure that properties in their mortgage portfolios comply with Federal law related to flood insurance.

FOR FURTHER INFORMATION CONTACT: H. Joseph Coughlin, Jr., Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472, (202) 646-2780.

SUPPLEMENTARY INFORMATION: On March 1, 1991, the Federal Insurance Administration (FIA), the Directorate within the Federal Emergency Management Agency (FEMA) responsible for the administration of the National Flood Insurance Program (NFIP), published in the **Federal Register** (56 FR 8882-8891, March 1, 1991) a notice describing the new Mortgage Portfolio Protection Program (MPPP). The Write Your Own (WYO) companies which had agreed to participate in the NFIP MPPP at that time were listed on page 8883 and, in appendix A to the notice, again listed, along with their Principal Coordinators, on page 8891.

Since the MPPP was first implemented, a number of additional companies participate in the program, some companies have dropped out of the program, and other changes have been made in some company addresses or Principal Coordinator. Therefore, the list of companies shown on page 8883 is republished, as follows:

American Bankers Insurance Company, Miami, FL
American Loyalty Insurance Company, Gahanna, OH
American Modern Home Group, Cincinnati, OH
American Sterling Insurance Company, El Toro, CA
Bankers Insurance Company, St. Petersburg, FL
Bankers & Shippers Insurance Company, Orlando, FL
Capital Assurance Company, Inc., Miami, FL
Colonial Penn Insurance Company, Tampa, FL
Consolidated International Group (American Centennial/Wesco Insurance Company), Houston, TX
First Insurance Company of Hawaii, LTD., Honolulu, HI
Great Pacific Insurance Company, San Bruno, CA
Independent Fire Insurance Company, Jacksonville, FL
Integrand Assurance Company, Caparra, PR
Island Insurance Company, LTD, Honolulu, HI
Minnehoma Insurance Company, Snohomish, WA
Minnesota Mutual Fire & Casualty, Minnetonka, MN
Omaha Property & Casualty Company, Omaha, NE
Praico Insurance Group, Pan American Insurance Company, Hato Rey, PR
Progressive Insurance Group, Rancho Cordova, CA
Redland Insurance Company, Council Bluffs, IA
Standard Guaranty Insurance Company, Atlanta, GA
Transamerican Premier Insurance Company, Orange, CA
Union American Insurance Company, Coral Gables, FL
Unisun Insurance Company, Charleston, SC
U.S. Security Insurance Company, Miami, FL

The list of companies, along with their Principal Coordinators, shown on page 8891 is republished, as follows:

Write your own companies which have agreed to participate in the National Flood Insurance Program Mortgage Portfolio Protection Program (MPPP) and are actively offering MPPP services and policies.

Company	Principal coordinator
American Bankers Insurance Company, 11222 Quail Roost Drive, Miami, FL 33157.	Kathi Wiles (305) 253-2244, extension 5217.
American Loyalty Insurance Company, 555 Officenter Place, Gahanna, OH 43230.	Wayne Moultrie (614) 478-1497.
American Modern Home Group, 537 East Pete Rose Way, P.O. Box 85323, Cincinnati, OH 45201.	Joseph Daniel Caskey (513) 721-3010, extension 254.
American Sterling Insurance Company, 22481 Aspan Street, El Toro, CA 92630.	Mark A. Lawrence (317) 262-6091.
Bankers Insurance Company, 10051 5th Street, North, P.O. Box 15707, St. Petersburg, FL 33702.	Kathleen M. Batson (813) 579-4000, extension 5312.
Bankers & Shippers Insurance Company, 1000 Legion Place, Orlando, FL 32801.	Cynthia DiVincenti (800) 451-5426.
Capital Assurance Company, Inc., 8600 Northwest 36th Street, P.O. Box 025276, Miami, FL 33166.	Norman Heinrich (305) 599-7414.
Colonial Penn Insurance Company, 4002 Eisenhower Boulevard, Tampa, FL 33634-9990.	Gary Wedd (813) 886-4444.
Consolidated International Group (American Centennial/Wesco Insurance Company), 6200 Savoy Drive, suite 1100, Houston, TX 77306-3315.	Joan Wilson (800) 283-8999.
First Insurance Company of Hawaii, LTD., 1100 Ward Avenue, P.O. Box 2866, Honolulu, HI 96814.	Norman Camara (808) 527-7495.
Great Pacific Insurance Company, 1250 Bayhill Drive, suite 100, San Bruno, CA 94066.	David Brody (415) 872-6676.
Independent Fire Insurance Company, One Independent Drive, Jacksonville, FL 32276-0001.	Kay M. Cummings (904) 632-8480.
Integrand Assurance Company, Roosevelt Avenue & Ensenada Street, Caparra, PR 00920.	Victor J. Salgado, Jr. (809) 781-0707.
Island Insurance Company, Ltd., 1022 Bethel Street, P.O. Box 1520, Honolulu, HI 96813.	Ronald K. Toguchi (808) 545-8162.
Minnehoma Insurance Company, 1629 Lakemount Drive, Snohomish, WA 98290.	Richard E. Pedack (206) 568-0555.
Minnesota Mutual Fire & Casualty, 10225 Yellow Circle Drive, Minnetonka, MN 55343.	Mark Gorman (612) 933-5033.
Omaha Property & Casualty Company, 3102 Farnam Street, Omaha, NE 68131.	Ted Johnson (402) 342-3326.
Praico Insurance Group, Pan American Insurance Company, Praico Building, Chardon Avenue and Corner, Gonzales Street, Hato Rey, PR 00918.	Raul Rosario (809) 250-5256.
Progressive Insurance Group, 11010 White Rock Road, Rancho Cordova, CA 95670.	MaryAnn Rohrback (916) 638-5212, extension 2220.
Redland Insurance Company, 535 West Broadway, P.O. Box 229, Council Bluffs, IA 51502-0229.	Larry W. Palmer (712) 325-1545.
Standard Guaranty Insurance Company, 3290 Northside Parkway, Atlanta, GA 30302.	Mark Chapman (404) 264-6973.
Transamerican Premier Insurance Company, 333 South Anita Drive, Orange, CA 92668.	John Durham (714) 937-2600, extension 2618.
Union American Insurance Company, 3830 West Flagler Street, Coral Gables, FL 33134.	Tony Medina (305) 445-0045.
Unisun Insurance Company, One South Park Circle, Charleston, SC 29407.	James A. Brazill (803) 571-0510.
U. S. Security Insurance Company, 3915 Biscayne Boulevard, Miami, FL 33137.	Lori Scaramellino (305) 576-1115, extension 317.

Dated: April 13, 1992.

C. M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-10225 Filed 4-30-92; 8:45 am]

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federal register

Friday
May 1, 1992

Part VII

Department of Housing and Urban Development

Office of the Assistant Secretary

Technical Assistance to Community Housing Development Organizations (CHDOs); Notice of Funding Availability

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-3428; FR-3204-N-01]

NOFA for Technical Assistance to Community Housing Development Organizations (CHDOs)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability for FY 1992.

SUMMARY: This NOFA announces HUD's funding for technical assistance to Community Housing Development Organizations (CHDOs) located within jurisdictions participating in the HOME Program (24 CFR part 92; Interim Rule added by 56 FR 65338 (December 16, 1991); a list of jurisdictions participating in the HOME Program is attached as an appendix to this NOFA.) Technical assistance is to be provided through nonprofit intermediary organizations experienced in providing technical assistance to produce affordable housing and a range of assistance relating to development activities, as specified in § 92.302 of the Interim Rule. A maximum of $14 million in funds will be made available to eligible nonprofit intermediary organizations through a competitive application process (Request for Cooperative Agreement Application (RFCAA)), with 40 percent of the awarded funds reserved for organizations serving primarily one State. Other funding restrictions are described in further detail within section I.B of this NOFA. This NOFA contains information on:

(a) The purpose and background of this NOFA, and the funding level provided through the cooperative agreement;

(b) Eligible applicants and activities, factors for awards, and statutory and cooperative agreement requirements; and

(c) The application requirements and process.

DATES: Cooperative Agreement Applications will be available as of May 1, 1992. Completed applications must be submitted no later 4:30 p.m. e.s.t., on June 30, 1992. Any completed application must be physically received by this deadline date and hour by the Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., room 7255, Washington, DC 20410, or, in the interest of fairness to all competing applicants, the application will be treated as ineligible for consideration. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

ADDRESSES: Application kits may be requested by calling (202) 708-1000 or (202) 708-2565 (TDD), or by faxing (202) 708-3363. (These are not toll-free numbers.) Requests may also be made by writing the Processing and Control Branch, Office of Community Planning and Development, 451 Seventh Street, SW., room 7255, Washington, DC 20410. When requesting an application kit, please refer to FR-3204, and include your name, mailing address (including zip code), and telephone number (including area code). (Completed applications should be submitted to this same address, but may not be faxed.) All procedural and substantive questions should be directed to Richard R. Burk, as indicated in the following paragraph.

FOR FURTHER INFORMATION CONTACT: HUD will not accept direct phone inquiries about this Notice. Written inquiries should be mailed or faxed to the attention of Richard R. Burk, Director, Program Operations Division, Office of Affordable Housing Programs, Department of Housing and Urban Development, room 7168, 451 7th Street, SW., Washington, DC 20410; FAX # (202) 708-1744. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register.

I. Purpose and Substantive Description

A. Authority and Purpose

The HOME Investment Partnerships Act (title II, Pub. L. 101-625, approved November 28, 1990, 42 U.S.C. 12701-12839) (the Act) has several purposes, including: (1) To strengthen the abilities of State and local governments and nonprofit organizations to design and implement strategies for providing decent, affordable housing; and (2) to create and strengthen partnerships among all levels of government and the private sector, including nonprofit organizations, in order to produce and manage affordable housing. In order to carry out these purposes, participating jurisdictions under the HOME program must reserve not less than 15 percent of their HOME allocations for investment in housing to be developed, sponsored, or owned by Community Housing Development Organizations (CHDOs). A CHDO is a specific type of nonprofit organization, and is defined in § 92.2 of the HOME Interim Rule.

Traditionally, CHDOs have sought capital and development funds for affordable housing preservation and development from a variety of sources, including government programs, foundations, institutions, religious and charitable organizations, corporate investments, banks and other traditional real estate financial resources. CHDOs have undertaken numerous projects within many of the nation's distressed communities to assist low-income families who are in need of affordable housing. The scale and variety of projects are broad-based, ranging from single-family housing and group homes, to larger multi-family rental and cooperative projects.

Each participating jurisdiction under the HOME program must identify CHDOs within its jurisdiction that are capable, or can reasonably be expected to become capable, of carrying out elements of the jurisdictions's approved housing strategy. (The appendix to this NOFA lists the participating jurisdictions in the HOME program.) Section 233 of the Act authorizes HUD to provide education and organizational support assistance to promote the ability of CHDOs to maintain, rehabilitate and construct housing for low- and moderate-income families. In addition, the Act specifies that HUD shall provide this assistance only through contract with nonprofit intermediary organizations that meet the established requirements, set forth in § 92.302(b) of the Interim Rule. Because intermediary organizations have housing technical expertise, they can assist CHDOs with individual housing projects, as well as provide training and education to build the CHDOs' capacities.

HUD will direct the technical assistance provided in this NOFA to create and strengthen partnerships between the participating jurisdictions and CHDOs to produce and manage affordable housing. These partnerships will be instrumental in the

implementation of the jurisdictions' housing strategies and the development and management of affordable housing. The technical assistance provided under this Notice in intended solely for CHDOs that are designated by a participating jurisdiction under the HOME program to receive support from the set-aside of not less than 15 percent of the participating jurisdiction's HOME allocation.

B. Statutory and Cooperative Agreement Requirements

Pursuant to section 233(e) of the Act, at least 40 percent of the awarded funds must be set aside for eligible nonprofit intermediaries that have served primarily in one State. Further, under § 92.302(d)(2) of the Interim Rule, funding to any single eligible nonprofit intermediary organization is limited to the lesser of 20 percent of all funds ($2,800,000) or an amount not to exceed 20 percent of the organization's operating budget for any one year (not including funds passed through the cooperating organization to CHDOs).

Cooperative agreements will be for 36 months; however, HUD reserves the right to withdraw funds from specific nonprofit intermediaries after 24 months if HUD determines that the demand for assistance is not commensurate to the award for assistance. Where there are multiple applications proposing to serve the same communities or needs, HUD may award multiple contracts to provide the full range of services to CHDOs in a particular community, State, or region.

C. Eligible Applicants

The organizations eligible to submit applications pursuant to this NOFA are intermediary organizations that have experience working with community-based organizations in the production of affordable housing or other development projects (see § 92.302(b)(1) of the Interim Rule.) Eligible intermediary organizations must:

(1) Be nonprofit organizations that customarily provide, in more than one community, services related to the provision of decent housing that is affordable to low- and moderate-income persons or the revitalization of deteriorating neighborhoods; and

(2) Have demonstrated experience in providing a range of assistance (such as financing, technical assistance, construction and property management assistance, capacity building, and training) to CHDOs or similar organizations that engage in community revitalization.

D. Eligible Activity Areas and Priorities

(1) *Activity Areas.* As identified in section 233 of the Act, and contained in § 92.302(c) of the Interim Rule, the eligible activity areas to achieve the stated objectives are:

(a) *Organizational Support.* Assistance may be made available to CHDOs to cover:

(i) The organization's operational expenses, such as personnel and office equipment;

(ii) Expenses for organizational/development training for the Board of Directors, staff and members of the organization; and

(iii) Technical and legal assistance to the organization's staff to develop and complete affordable housing projects;

(b) *Housing Education.* Housing education assistance may be made available to CHDOs to cover expenses for providing or administering programs for:

(i) Educating and counseling homeowners and/or tenants about homeownership, establishing credit and managing debt, and tenant assistance and related programs; and

(ii) Organizing homeowners and tenants to develop cooperatives, condominium, tenant and other associations in conjunction with the receipt of assistance through the HOME program;

Note: If an organization chooses to pass through funds to a CHDO for activity areas (a) and (b), the CHDO may not receive assistance for these activities for any fiscal year in an amount that, together with other federal assistance, provides more than 50 percent of the CHDO's total operating budget in the fiscal year.

(c) *Program-wide Support for Nonprofit Management and Development.* Property management technical assistance and training may be made available to technical assistance efforts to CHDOs in these activity areas through three vehicles:

(a) *A Nationwide Clearinghouse.* A nationwide clearinghouse will be established (and funded under a separate contract, not as part of this NOFA). The clearinghouse will assist nonporfit and for-profit housing organizations, as well as CHDOs and participating jurisdictions, in the implementation of the HOME Program, expenditure of HOME funds and other affordable housing programs. The clearinghouse will:

(i) Disseminate HUD affordable housing program information, such as legislative updates, HUD Notices, sample model programs, relevant news/magazine articles and research data;

(ii) Provide an array of housing topic information, such as underwriting, property management and project development;

(iii) Announce training and seminar opportunities; and

(iv) Provide sample documentation that can be used in the development of programs or for specific types of projects.

(b) *Specialized Training.* HUD will not fund proposals submitted in response to the RFCAA for training on housing-related topics that CHDOs can obtain through existing training courses (HUD is already providing training to nonprofit organizations and participating jurisdictions on the basic elements of the HOME program). Specialized training under this NOFA will be provided through the demand/response system as described in the following section I.E of this NOFA. Training delivered by nonprofit intermediary organizations must:

(i) Address the specific technical assistance needs of the CHDO; and/or

(ii) Provide information on highly specialized housing topics that is not available on a nationwide basis, such as land trusts and low-income equity cooperatives.

(c) *Direct Technical Assistance.* Historically, CHDOs have demonstrated varying degrees of success in securing the necessary capital resources and packaging housing development projects. The complexity of the eligible CHDOs for managing properties developed through the HOME program. In addition, continuing support may be available to enable CHDOs to preserve and perpetuate the affordability of properties developed through the HOME program;

(d) *Benevolent Loan Funds.* Technical assistance may be made available to assist CHDOs in:

(i) Developing an understanding of the use of benevolent loan funds to promote and develop affordable housing in their communities; and

(ii) Forming partnerships with their local private financial institutions to use benevolent loan funds (the acceptance of deposits at below-market interest rates and the lending of such funds at favorable rates to nonprofit developers of low-income housing and to low-income homebuyers); and

(e) *Community Development Banks and Credit Unions.* HUD recognizes community development banks and credit unions as viable community-based lending institutions to finance the development of affordable housing. Therefore, technical assistance may be made available to assist CHDOs in

establishing privately owned, local community development banks and credit unions that will include among their lending activities the financing of affordable housing in low-income neighborhoods.

(2) *Activity Priorities.* Because areas of the country are underserved by CHDOs (CHDOs are newly formed and therefore, lack experience and capacity), HUD will use the funds under this NOFA to conduct a demonstration program to provide pass-through funds to these organizations for capacity building and operational development, as identified in activity area (a) in paragraph (1) of this section. The focus of the demonstration is on rural areas, areas where there are large concentrations of racial or ethnic minorities, and the Southwestern portion of the country.

Although all five activity areas are eligible for funding under this NOFA, HUD will place priority on funding technical assistance activities (a), (b), (c), listed in paragraph (1) of this section. HUD will direct the developmental process and the financial requirements of the capital resources often require CHDOs to obtain outside direct technical and professional assistance and expertise. In order to meet the CHDOs' needs, a demand/response system will be implemented to provide the necessary housing development assistance.

E. The Demand/Response System For Technical Assistance and Training

HUD will direct the provision of technical assistance and training through a nationwide delivery system that will be available to all participating jurisdictions and CHDOs. HUD will distribute a list of the funded nonprofit intermediary organizations that will specify their areas of expertise and particular service delivery areas. In order to receive the training or technical assistance that is to be provided by nonprofit intermediary organizations funded through this NOFA, a CHDO must be designated as a recipient, or intended recipient, of HOME funds by its respective participating jurisdiction, and must forge a partnership with its participating jurisdiction.

The partnership must identify the CHDO's needs and the type of technical assistance and training that is necessary to assist in the implementation of the participating jurisdiction's housing strategy. The partnership will be responsible for contacting and submitting a request to the appropriate nonprofit intermediary organization based on the type of assistance needed and the service delivery area.

The nonprofit intermediary organization will be responsible for:

(1) Receiving telephone calls and written requests for assistance from the partnerships;

(2) Conducting evaluations/assessments of a partnership's requests;

(3) Identifying the CHDO's needs in relation to the nonprofit intermediary organization's expertise, available personnel and delivery area;

(4) Determining the level of effort (cost/personnel) to provide assistance;

(5) Preparing recommendations (Technical Plan For Assistance) to accompany the partnership's requests, and submitting its recommendations to HUD Headquarters for approval;

(6) Providing the requested technical assistance and training to the CHDO; and

(7) Preparing and submitting evaluations of the training and technical assistance that was provided, as well as all training materials and technical assistance documentation to HUD Headquarters.

F. Factors for Awards

The following is a list of the factors that should be used to prepare the program narrative referenced in section III, Application Submission Requirements, of this NOFA. These Factors for Awards will be considered by the Department in evaluating applications received in response to the RFCAA (121 Points Total):

(1) Relevant organizational experience and the competence of key personnel assigned to the project (30 Points Total), consisting of:

(a) The applicant's experience in working with community-based organizations on the production of affordable housing or the revitalization of deteriorating neighborhoods (10 points).

(b) The applicant's experience in providing, to CHDOs or similar nonprofit organizations that engage in community revitalization within the proposed service delivery area, a range of technical assistance and training in relation to the eligible activity areas identified in section I.D of this NOFA (10 points).

(c) The extent to which the proposed project director and key personnel have relevant experience in managing technical assistance and training projects (8 points).

(d) The extent to which the applicant has access to qualified experts or professionals to assist in the delivery of technical assistance and training (2 points).

(2) The effectiveness of the applicant in meeting the capacity building needs of CHDOs (25 Points Total), based on the extent to which the applicant:

(a) Has experience in increasing CHDOs' capacity in the acquisition, rehabilitation, new construction and management of affordable housing in the proposed service delivery area (10 points).

(b) Has experience and the capacity to serve effectively areas that are traditionally underserved by CHDOs, such as the Southwestern portion of the country, rural areas, and areas that have large concentrations of racial or ethnic minorities (10 points).

(c) Demonstrates how specific technical assistance and training activities will fulfill CHDOs' needs (5 points).

(3) The soundness of the applicant's approach to providing effective and efficient assistance to CHDOs (20 Points Total), based on the extent to which the applicant:

(a) Provides a technically effective plan for designing, organizing and carrying out its technical assistance and training for CHDOs (10 points).

(b) Demonstrates an efficient use of both current and potential financial and human resources in conducting technical assistance or training for CHDOs (10 points).

(4) The potential to expand CHDOs' capacities beyond the period of the cooperative agreement (25 Points Total). This factor will be evaluated according to the ability of the applicant to:

(a) Expand CHDOs' capacities and develop their expertise on preserving affordable housing, as prescribed by the HOME Investment Partnership Act (10 points).

(b) Preserve and strengthen partnerships between CHDOs and participating jurisdictions (10 points).

(c) Enhance the CHDOs' abilities to undertake new activities related to the production and conservation of affordable housing (5 points).

(5) The applicant's willingness to provide direct technical assistance and/or training under this NOFA to CHDOs in the following activity areas (21 Points Total):

(a) Organizational support (7 points);

(b) Housing education (7 points); and

(c) Program-wide support for nonprofit management and development (7 points).

II. Application Process

A. Obtaining and Submitting an Application Package

Cooperative Agreement Applications are available only from HUD Headquarters in Washington, DC.

Application kits may be requested by calling (202) 708–1000 or (202) 708–2565 (TDD), or by faxing (202) 708–3363. (These are not toll-free numbers.) Requests may also be made by writing: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., room 7255, Washington, DC 20410. When requesting an application kit, please refer to FR–3204, and include your name, mailing address (including zip code), and telephone number (including area code). The completed application and four copies must be submitted in a sealed envelope addressed to the Processing and Control Branch, at the above address. Applications must be physically received by no later than 4:30 p.m. e.s.t., on June 30, 1992. (The due date also will be specified in the RFCCA). Applications not containing both parts specified in Section III, Application Requirements, of this NOFA will not be considered.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

Facsimiled applications are not authorized and therefore, will not be reviewed.

B. Debarred and Suspended Applicants

HUD will not award assistance under this Notice to any applicant that is debarred, suspended, or otherwise excluded, or ineligible from participating in Federal assistance programs under Executive Order 12549.

III. Application Submission Requirements

Complete applications consist of two separate parts, which must be submitted together.

A. *The first part of the application* contains Standard Form (SF) 424-Application for Federal Assistance, and a program narrative statement. The program narrative must contain all of the information necessary to evaluate the application in accordance with section I.F., Factors For Awards, of this NOFA. The program narrative must address the following:

(1) *Organization and Staffing.* The narrative must include an organizational chart and resumes or Statements of Qualifications of the applicant's project manager and all key personnel, in relation to managing technical assistance and training projects and increasing CHDOs' capacities to acquire, rehabilitate, construct and manage affordable housing in the proposed service delivery area. If key personnel have not been selected, submit a statement that describes the qualifications for their selection and the extent to which the applicant has access to qualified experts and professionals to assist in the delivery of technical assistance and training.

(2) *Prior and Current Experience.* The narrative must include a description of the applicant organization's:

(a) Experience in working with community-based organizations on the production of affordable housing for low- and moderate-income persons and families or the revitalization of deteriorating neighborhoods;

(b) Experience in providing, to CHDOs or similar nonprofit organizations that engage in community revitalization within the proposed service delivery area, a range of technical assistance and training in relation to the eligible activity areas identified in section I.D of this NOFA; and

(c) Experience and capacity in serving areas that are traditionally underserved by CHDOs, such as the Southwestern portion of the country, rural areas, and areas that have large concentrations of racial or ethnic minorities.

(3) *Geographic Service Area.* The narrative must describe the geographic area, specifically any State or participating jurisdiction where the organization will provide training, a demonstration program, or direct technical assistance to CHDOs.

(4) *Training.* The narrative must include a description of:

(a) The type of training courses that the applicant will provide to CHDOs, including specific subject matters in relation to the eligible activity areas identified in section I.D of this NOFA, and the course materials;

(b) How the training will fulfill CHDOs' assistance needs;

(c) The applicant's plan for designing, organizing and carrying out the training; and

(d) The applicant's plan for using both current and potential financial and human resources in conducting the training.

(5) *Direct Technical Assistance.* The narrative must include a description of:

(a) The technical assistance the applicant will provide to CHDOs in relation to the eligible activity areas identified in section I.D of this NOFA;

(b) How the direct technical assistance will fulfill CHDOs' assistance needs;

(c) The applicant's plan for designing, organizing and carrying out its technical assistance, from the receipt of the initial technical assistance request from the CHDOs, to the completion of the task; and

(d) The applicant's plan for using both current and potential financial and human resources in delivering the technical assistance.

(6) *Capacity and Operational Development Pass-Through.* If the applicant plans to implement a demonstration program, the narrative must describe how pass-through funds will help to develop the capacity of newly formed CHDOs that have been designated by a participating jurisdiction to receive support from the set-aside of not less than 15 percent of the participating jurisdiction's HOME allocation.

(7) *Results or Benefits Expected.* The narrative must identify expected results or benefits to be derived by CHDOs, including:

(a) How CHDOs will use the training and direct technical assistance to expand their capacities and develop their expertise on preserving affordable housing;

(b) How partnerships between CHDOs and participating jurisdictions will be preserved and strengthened; and

(c) How CHDOs' ability to undertake new activities related to the production and conservation of affordable housing will be enhanced.

B. *The second part of the application* contains budgetary data (including the applicant organization's operating budget for the purpose of the maximum grant calculation), audit information, assurances and necessary signatures. The following certifications and assurances are required by the RFCAA:

(1) OMB Standard Form 424B, Assurances for nonconstruction programs.

(2) Drug-Free Workplace certification.

(3) Certification regarding lobbying pursuant to section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352), generally prohibiting use of appropriated funds for lobbying.

IV. Corrections to Deficient Applications

After the deadline, applicants that met the deadline can cure only nonsubstantive technical deficiencies in their applications. Applicants have a 14-calendar day "cure period" to correct deficiencies in the applications (such as

the failure to submit a required certification) that are not integral to HUD's evaluating the application according to the Factors for Awards in section I.F. of this NOFA. Applicants have 14 days from the date HUD notifies the applicant of any problem to submit the appropriate information to HUD. Notification of a technical deficiency may be in writting or by telephone; if made by telephone, a written confirmation will be transmitted by HUD to the applicant.

V. Other Matters

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced in the **Federal Register.**

Environmental Review

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(b) of the HUD regulations, the policies and procedures contained in this rule relate only to the provision of technical assistance and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this notice will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. The NOFA will fund technical assistance to facilitate the education of low-income homeowners and tenants, and to promote the ability of CHDOs to maintain, rehabilitate and construct housing for low- and moderate-income families. It will have no substantial impact on States or their political subdivisions.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this notice will likely have a beneficial, although indirect, impact on family formation, maintenance, and general well-being. The technical assistance provided as a result of an award under this NOFA will facilitate the housing education of low- and moderate-income familes, and will promote the ability of CHDOs to maintain, rehabilitate and construct housing for these families. Accordingly, since the impact on the family is beneficial and indirect, no further review is considered necessary.

Section 102 of the HUD Reform Act: Documentation and Public Access Requirements; Applicant/Recipient Disclosures

Disclosures

Pursuant to section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) (HUD Reform Act), HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 12, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Public Notice.

In its quarterly **Federal Register** notice of recipients of all HUD assistance awarded on a competitive basis, HUD will also include recipients that receive assistance pursuant to this NOFA. (See 24 CFR 12.16, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

Section 103 of the HUD Reform Act

HUD's regulation implementing section 103 of the HUD Reform Act was published on May 13, 1991 (56 FR 22088), and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Section 112 of the Reform Act

Section 112 of the HUD Reform Act added a new section 13 to the Department of Housing and Urban Develpment Act (42 U.S.C. 3537b). This new section 13 contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule.

Any questions about the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410–3000. Telephone: (202) 708–3815 (TDD/Voice). (This is not a toll-free number.) Forms

necessary for compliance with the rule may be obtained from the local HUD office.

The Catalog of Federal Domestic Assistance Program number is 14.239.

Authority: 42 U.S.C. 3535(d) and 12701–12839.

Dated: April 23, 1992.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

Appendix—Jurisdictions Submitting Notices of Intent to Become Participating Jurisdictions Under the Home Program in FY 1992 (Listed by State)

Alabama

Alabama	Montgomery
Birmingham	Tuscaloosa
Huntsville	Jefferson County
Mobile	

Alaska

Alaska	Anchorage

Arizona

Arizona	Cnsrt—Maricopa County
Phoenix	Cnsrt—Tucson

Arkansas

Arkansas	Pine Bluff
Little Rock	

California

California	Sacramento
Alhambra	Salinas
Anaheim	San Bernardino
Bakersfield	San Diego
Berkeley	San Francisco
Burbank	San Jose
Chula Vista	Santa Ana
Compton	Santa Barbara
Costa Mesa	Santa Clara
El Cajon	Santa Monica
El Monte	Santa Rosa
Fresno	South Gate
Fullerton	Stockton
Garden Grove	Sunnyvale
Glendale	Vallejo
Hawthorne	Contra Costa County
Huntington Beach	Fresno County
Huntington Park	Kern County
Inglewood	Los Angeles County
Long Beach	Marin County
Los Angeles	Orange County
Lynwood	Riverside County
Modesto	Sacramento County
National City	San Bernardino County
Oakland	San Diego County
Oceanside	San Joaquin County
Ontario	Santa Clara County
Oxnard	Sonoma County
Pasadena	Ventura County
Pomona	Cnsrt—Alameda County
Richmond	Cnsrt—San Mateo County
Riverside	

District of Columbia

Washington, D.C.

Colorado

Colorado	Denver
Aurora	Adams County
Boulder	Cnsrt—Pueblo
Colorado Springs	

Connecticut

Connecticut	New Haven
Bridgeport	Stamford
Hartford	Waterbury
New Britain	

Delaware

Delaware	New Castle County
Wilmington	

Florida

Florida	Broward County
Daytona Beach	Dade County
Ft. Lauderdale	Escambia County
Gainesville	Hillsborough County
Hialeah	Lee County
Jacksonville	Orange County
Miami	Palm Beach County
Miami Beach	Pasco County
Orlando	Polk County
St. Petersburg	Cnsrt—Brevard County
Tallahassee	Cnsrt—Pinellas County
Tampa	Cnsrt—Sarasota County
West Palm Beach	Cnsrt—Volusia County

Georgia

Georgia	Macon
Albany	Savannah
Athens	De Kalb County
Atlanta	Cnsrt—Greater North Atlanta
Augusta	
Columbus	

Hawaii

Hawaii	Honolulu

Idaho

Idaho	Boise

Illinois

Illinois	Cook County
Chicago	Du Page County
Decatur	Madison County
East St. Louis	St. Clair County
Peoria	Will County
Rockford	Cnsrt—Lake County
Springfield	

Indiana

Indiana	Hammond
Bloomington	Indianapolis
Evansville	Muncie
Fort Wayne	Lake County
Gary	Cnsrt—South Bend

Iowa

Iowa	Des Moines
Davenport	

Kansas

Kansas	Topeka
Kansas City	Wichita

Kentucky

Kentucky	Louisville
Covington	Jefferson County
Lexington-Fayette	

Louisiana

Louisiana	Monroe
Alexandria	New Orleans
Baton Rouge	Shreveport
Lafayette	Jefferson Parish

Massachusetts

Massachusetts	Cambridge
Boston	Fall River
Brockton	Lawrence
Lowell	Worcester
Lynn	Cnsrt—Holyoke
New Bedford	Cnsrt—Malden
Somerville	Cnsrt—Newton
Springfield	Cnsrt—Quincy

Maine

Maine	Portland

Maryland

Maryland	Baltimore County
Baltimore	Montgomery County
Anne Arundel County	Prince Georges County

Michigan

Michigan	Pontiac
Ann Arbor	Saginaw
Detroit	Genesee County
Flint	Macomb County
Grand Rapids	Oakland County
Kalamazoo	Wayne County
Lansing	

Minnesota

Minnesota	Cnsrt—Dakota County
Duluth	Cnsrt—Hennepin County
Minneapolis	Cnsrt—St. Louis County
St. Paul	

Mississippi

Mississippi	Jackson

Missouri

Missouri	St. Louis
Kansas City	St. Louis County
Springfield	

Montana

Montana	

Nebraska

Nebraska	Omaha
Lincoln	

Nevada

Nevada	Reno
Las Vegas	Cnsrt—Clark County

New Jersey

New Jersey	Bergen County
Atlantic City	Burlington County
Camden	Camden County
East Orange	Essex County
Elizabeth	Gloucester County
Irvington	Middlesex County
Jersey City	Monmouth County
Newark	Morris County
Passaic	Somerset County
Paterson	Cnsrt—Hudson County
Perth Amboy	Cnsrt—Ocean County
Trenton	Cnsrt—Union County

New Mexico

New Mexico	Albuquerque

New York

New York State	Yonkers
Albany	Dutchess County
Babylon Town	Nassau County
Binghamton	Orange County
Buffalo	Rockland County
Islip Town	Suffolk County
Mount Vernon	Westchester County
New Rochelle	Cnsrt—Erie County
New York City	Cnsrt—Monroe County
Niagara Falls	Cnsrt—Onondaga County
Rochester	
Syracuse	Cnsrt—Schenectady
Utica	

New Hampshire

New Hampshire	Manchester

North Carolina

North Carolina	High Point
Charlotte	Raleigh
Durham	Wilmington
Fayetteville	Winston-Salem
Greensboro	

North Dakota

North Dakota

Ohio

Ohio	Toledo
Akron	Youngstown
Canton	Cuyahoga County
Cincinnati	Franklin County
Cleveland	Hamilton County
Columbus	Lake County
Dayton	Stark County
East Cleveland	Cnsrt—Montgomery Co.
Hamilton City	Cnsrt—Summit Co.
Springfield	Cnsrt—Warren

Oklahoma

Oklahoma	Oklahoma City
Lawton	Tulsa

Oregon

Oregon	Washington County
Salem	Cnsrt—Eugene
Clackamas County	Cnsrt—Portland

Pennsylvania

Pennsylvania	Philadelphia
Allentown	Pittsburgh
Erie	Reading
Harrisburg	Scranton
Lancaster	Allegheny County
Beaver County	Washington County
Berks County	Westmoreland County
Chester County	Cnsrt—Bucks County
Lancaster County	Cnsrt—Delaware County
Luzerne County	Cnsrt—York County
Montgomery County	

Puerto Rico

Puerto Rico	Carolina Municipio
Aguadilla	Guaynabo Municipio
Arecibo	Mayaguez Municipio
Bayamon Municipio	Ponce Municipio
Caguas Municipio	San Juan Municipio

Rhode Island

Rhode Island	Providence
Pawtucket	

South Carolina

South Carolina	North Charleston
Charleston	Greenville County
Columbia	
Greenville	

South Dakota

South Dakota

Tennessee

Tennessee	Memphis
Chattanooga	Nashville-Davidson
Knoxville	

Texas

Texas	Houston
Abilene	Laredo
Amarillo	Lubbock
Arlington	McAllen
Austin	Odessa
Beaumont	San Antonio
Brownsville	Waco
Corpus Christi	Wichita Falls
Dallas	Bexar County
El Paso	Harris County
Fort Worth	Hidalgo County
Galveston	Tarrant County

Utah

Utah	Cnsrt—Salt Lake County
Salt Lake City	Cnsrt—Utah Valley

Vermont

Vermont

Virginia

Virginia	Richmond
Alexandria	Roanoke
Chesapeake	Virginia Beach
Hampton	Arlington County
Newport News	Fairfax County
Norfolk	Henrico County
Portsmouth	

Washington

Washington	King County
Seattle	Pierce County
Spokane	Snohomish County
Tacoma	Spokane County
Clark County	

West Virginia

West Virginia	Huntington

Wisconsin

Wisconsin	Milwaukee
Green Bay	Racine
Madison	Milwaukee County

Wyoming

Wyoming

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Friday
May 1, 1992

Part VIII

Copyright Royalty Tribunal

37 CFR Part 310

1991 Satellite Carrier Rate Adjustment Proceeding; Adoption of Arbitration Panel's Determination; Rule

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 310

[CRT Docket No. 91-3-SCRA]

1991 Satellite Carrier Rate Adjustment Proceeding

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule; Notice of adoption of Arbitration Panel's determination.

SUMMARY: The Arbitration Panel convened for this proceeding has determined that the satellite carrier royalty rate shall be raised to 17.5 cents for independent stations, 14 cents for syndex-proof independent stations and 6 cents for network and PBS stations. The Tribunal adopts the Panel's decision and rejects the petitions of both the copyright owners and satellite carriers.

EFFECTIVE DATE: The new rates shall go into effect May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Tribunal, 1825 Connecticut Avenue, NW., suite 918, Washington, DC 20009 (202) 606-4400.

SUPPLEMENTARY INFORMATION: In 1988, Congress created a satellite carrier compulsory copyright license for the retransmission of broadcast signals to satellite dish owners for private home viewing. Congress set the initial rates of 12 cents per subscriber per month for network stations.

Congress provided that the rates should be adjusted in 1991-92, first by negotiations, but if they proved unsuccessful, then by arbitration. Accordingly, when negotiations did not succeed, an arbitration panel was established. The Arbitration Panel held proceedings, and the Panel submitted its report to the Tribunal timely on March 2, 1992.

The Panel determined that the satellite carrier rates should be raised to 17.5 cents for independent stations, 14 cents for syndex-proof independent station, and 6 cents for network and PBS stations.

Section 119(c)(3)(F) of the Copyright Act gave the Tribunal 60 days to review the Panel's decision and directed the Tribunal to adopt the determination of the Panel unless the Tribunal found that the determination was clearly inconsistent with the criteria set forth by Congress.

On March 18, 1992, petitions were filed by the copyright owners and the satellite carriers urging the Tribunal to find, for different reasons, that the Panel's determination was clearly inconsistent with Congress' criteria. What follows is a discussion of the issues the parties raised.

Panel's Application of Congress' Criteria

Of the seven criteria set by Congress, the Panel found two of them inapplicable. First, there were no fees established by voluntary negotiations. Second, the last fees proposed in negotiations were considered by the Panel to be only beginning positions and therefore unusable.

Of the remaining five criteria, one concerned the average cost to cable systems of similar service, and the other four (Sec. 119(c)(3)(D)(i)-(iv)) were what were called "marketplace" factors. The panel concluded that Congress wanted the Panel "to consider approximate average cable cost and the four additional factors coequally." Panel, p. 17.

The copyright owners argued that while the Panel said it would consider these factors coequally, that in fact, "the average cable cost was calculated, and then a discounted marketplace rate was calculated merely to verify the average cable cost." Owners, p. 4. The owners argued marketplace value was not given independent and equal weight.

Conversely, the carriers argued that the Panel gave too much weight to the four marketplace criteria. According to the carriers, "average cable costs, the first consideration under the statute, should take priority in this proceeding. The other considerations essentially [should] serve as a 'safety net.'" Carriers, p. 8.

The Tribunal believes that the Panel should be credited with acting as it said it did. It first developed an average cable cost of 17.5 cents. Panel, p. 16. Then looking at an analogous marketplace of four cable networks, the Panel considered their average actual fees, 23 cents, and subtracted 5 cents for the value of insertable advertising, a value not available for retransmitted broadcast signals. The Panel concluded that a marketplace value of 18 cents for distant signals was reasonable. Panel, p. 24. Given the closeness of 17.5 cents and 18 cents, whether the Panel followed the co-equal weighing that the owners say is required, or whether the Panel followed the primary weight to average cable costs that the carriers say is required, the result would have been approximately the same. As such, it was not shown by either party that the Panel's decision was clearly inconsistent with Congress' criteria.

Ratio of Rates for Independent Stations and Network Stations

The 12 cents/3 cents rate Congress intitally established for independent station and network stations, respectively, represents a 4:1 ratio, the same ratio that exists in the cable rates. The Panel concluded, "we are not bound in law to continue the 4:1 ratio, * * * royalty parity is only one of several criteria Congress set for our consideration." Panel, p. 32. As a result, the Panel set a network rate of 6 cents, about 1.6 cents higher than what a 4:1 ratio would indicate.

The carriers argued that the 4:1 ratio in rates between independent and network stations must by law be preserved. The carriers reasoned that Congress intended parity between the satellite and cable industries, and that this was expressed by Congress' instruction to the Panel to look at average cable costs.

The owners, on the other hand, argued that the Panel should have adopted a 1:1 ratio, because of the Tribunal's ruling interpreting Section 119 to include network copyright owners as participants in satellite royalty distributions. 56 FR 20414 (May 3, 1991). Because network copyright owners are entitled to receive satellite royalties, but not cable royalties, the owners argued that full value should have been accorded network signals, and that the quarter value given network signals in cable retransmissions was legally irrelevant.

The Tribunal believes the Panel was not bound by either a 4:1 ratio or a 1:1 ratio. When the Tribunal issued its declaratory ruling concerning network copyright owners, we did not intend to prejudge any future ratesetting. We noted that in cable and in satellite, the pay-in may not necessarily correlate to the pay-out. Therefore, a 1:1 ratio is not required. However, we do believe the Panel had the authority to take our declaratory ruling into account, so that it was entitled to adjust the 4:1 ratio downward to reflect that network copyright owners are entitled to receive satellite royalties.

Incorporation of Syndicated Exclusivity Surcharge (Syndex) in the Rate

When the Panel determined that the average cable cost for independent stations was 17.5 cents, it looked to 1989. In that year, the cable rates included a syndex surcharge to compensate for the fact that the FCC rules no longer provided for blackout protection for syndicated shows. However, in 1990, the FCC reinstated blackout protection, and the Tribunal removed the syndex surcharge. Consequently, cable payments declined about 20%. The carriers argued that the

Panel's rates should have followed the 1990 cable rate structure.

The Panel noted the change in rates in 1990, but observed that in 1992, while copyright owners can demand blackout of cable programs and so no surcharge is necessary, copyright owners still have no comparable protection vis-a-vis satellite carriers. Therefore, the Panel concluded that looking at the 1989 rate structure which included the syndex surcharge was more appropriate. However, where satellite carriers deliver signals for which copyright owners can not demand blackout because they have conveyed national rights or for other reasons (otherwise known as "syndex-proof"), then the Panel agreed with the carriers that a 20% reduction was warranted, and adopted a 14 cents rate for syndex-proof independent stations.

The carriers argued that Congress provided a sole remedy for the issue of blackout protection, and that was to instruct the FCC to impose a blackout requirement on satellite carriers, if feasible. When the FCC found that it was not technically feasible to require carriers to blackout, the carriers contend it was not up to the Panel to devise a monetary solution.

However, as this might be one reading of section 119, it is equally reasonable to interpret the Panel's authority as allowing it to adjust rates in light of the FCC's action. We believe the carriers did not show where the Panel was clearly inconsistent with the Act, and we affirm the syndex portion of the 17.5 cents rate.

Definition of "Syndex-proof"

The Panel adopted a 14 cents rate for "syndex-proof" independent signals, but the owners asserted that this was ambiguous. In deciding whether a signal is syndex-proof, did the Panel intend for the ratepayer to look only at whether the signal itself was syndex-proof nationwide, or should the ratepayer consider the circumstances of the individual home viewer as well?

The owners believe the Panel intended a 14 cents rate only for signals that were syndex-proof nationwide. The carriers believe that the Panel intended to include the individual circumstances of the receiving dish.

The Tribunal agreed that some ambiguity existed and asked the Panel to clarify what it said on page 12 of its Report and in footnote 10. The Panel explained that the 14 cents rate applies "only to those signals which have eliminated any syndex problems on a nationwide basis." Letter, dated April 22, 1992. Accordingly, the Tribunal's regulations below reflect the intent of the Panel concerning "syndex-proof."

Effective Date of the Rates

The Panel adopted an effective date for the new rates of January 1, 1993. Panel, p. 35. The copyright owners argued that this was clearly inconsistent with section 119(c)(3)(G) which states that the Panel's decision becomes effective "on the date when the decision of the Tribunal is published in the Federal Register." The carriers argued that the legislative history spoke of an effective date of January 1, 1993, and, alternatively, that it was within the discretion of the Panel to set the effective date.

We agree with the owners that the law is clear that the new rates are effective upon publication of this decision in the Federal Register, which is May 1, 1992, and that where the law is clear, no resort to the legislative history is justified. The carriers have had personal notice of the change in rates since March 2, 1992, and do not have to make their first semiannual payment until July 31, 1992, so no inequity will result from an earlier effective date.

Other Issues

We acknowledge the other issues raised by the owners and carriers. The copyright owners questioned the way the Panel developed marketplace value from the owners' evidence and the carriers' evidence; they questioned the 50% valuation the Panel gave to network stations; and they questioned why the Panel further reduced the value of network stations another 25%. On the other hand, the satellite carriers questioned the Panel's inflation adjustment when cable payments appear flat, and they questioned the exclusion of Form 1 and 2 cable systems from the calculation of average cable costs.

While the Tribunal, if it had been sitting as the trier of fact, might have reached different conclusions, our role in reviewing the Panel's decision is limited. Unless it can be shown that the Panel actions were "clearly inconsistent" with Congress' criteria, we cannot overturn them. Accordingly, whatever merit these other issues might have, the Panel gave a rational basis for each of its conclusions, and we are required to defer to the Panel's judgment.

In conclusion, the Tribunal affirms the Panel's decision in all respects, except that the effective date is May 1, 1992. The Panel's full decision follows below.

APA "Good Cause" Showing

Section 553 of the Administrative Procedure Act states that rules may not become effective less than 30 days after publication in the Federal Register, except, among other provisions, where good cause is shown. Accordingly, the Tribunal finds that 17 U.S.C. 119(c)(3)(G) requires that the rates adopted by the Panel become effectively immediately upon publication in the Federal Register and thereafter finds good cause.

List of Subjects in 37 CFR Part 310

Copyright, Satellite.

For the reasons set forth in the preamble, the Tribunal adds 37 CFR part 310, a new part consisting of §§ 310.1 through 310.3, as follows:

PART 310—ADJUSTMENT OF ROYALTY FEE FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS

Sec.

Authority: 17 U.S.C. 119(c)(3)(F).

§ 310.1 General.

This part 310 adjusts the rates of royalties payable under compulsory license for the secondary transmission of broadcast stations under 17 U.S.C. 119.

§ 310.2 Definition of syndex-proof signal.

A satellite retransmission of a broadcast signal shall be deemed "syndex-proof" for purposes of § 310.3(b) if, during any semiannual reporting period, the retransmission does not include any program which, if delivered by any cable system in the United States, would be subject to the syndicated exclusivity rules of the Federal Communications Commission.

§ 310.3 Royalty fee for secondary transmission of broadcast stations by satellite carriers.

Commencing May 1, 1992, the royalty rate for the secondary transmission of broadcast stations for private home viewing by satellite carriers shall be as follows:

(a) 17.5 cents per subscriber per month for independent stations;

(b) 14 cents per subscriber per month for independent stations whose signals are syndex-proof; and

(c) 6 cents per subscriber per month for network stations and noncommercial educational stations.

Dated: April 28, 1992.

Cindy Daub,

Chairman.

Appendix

Note: This appendix will not appear in the Code of Federal Regulations.

Copyright Royalty Tribunal

Arbitration Panel

In the matter of Satellite Carrier Royalty Rate Adjustment Proceeding, March 2, 1992.

Report of the Arbitration Panel

Pursuant to section 119(c)(3) of the Copyright Act, as amended by the satellite Home Viewer Act of 1988 ("SHVA"), 17 U.S.C. 119(c)(3), the Arbitration Panel ("Panel") hereby reports to the Copyright Royalty Tribunal ("Tribunal") its determination of the fee to be paid in 1993 and 1994 by satellite carriers for the right to transmit secondarily to the public, for private home viewing, a primary transmission made by a broadcast station.

For the reasons set forth below, we find that the fee should be (a) 17.5 cents per subscriber per month for "superstations" whose signals, when distributed to the private home viewer, carry syndicated programming; (b) 14 cents per subscriber per month for superstations whose signals are "syndex-proof," as further discussed; and (c) 6 cents per subscriber per month for network stations, including public broadcasting stations.[1]

Background

The satellite carriers involved in this proceeding use satellites to distribute broadcast television station signals to owners of receiving terminals known as home satellite dishes ("HSDs"). Such transmissions are described generally as "distant" signals because they are transported beyond the local "over-the-air" reach of the broadcast television station. Monthly or annual charges for this service are collected from private home viewers or from intermediary "distributors" who contract with the viewers. Among the carriers' costs are payments to copyright owners for the rights to make commercial use of the content of the broadcast signals.[2]

In 1988 Congress adopted the SHVA, Public Law 100-667, 102 Stat. 3949. Among other features, the legislation granted a six-year compulsory copyright license to satellite carriers for the right to engage in secondary transmission of primary station broadcasts. 17 U.S.C. 119(a). The license was modeled upon, but also differed from, that granted to cable television operators by the 1976 Copyright Act, PL 94-553, 90 Stat. 2541, 17 U.S.C. 111.

For the first four years of the license, 1989-92, satellite carriers were to pay copyright royalties of 12 cents per subscriber for each superstation and 3 cents per subscriber for each network station. The carriage of network stations, however, was limited to "unserved households" [3] in so-called "white areas" where the home subscriber could not receive over the air the signal of a station carrying that network's programming, or had not recently received such a signal via cable television.

The statute provided for two methods of setting royalty rates in the final two years of the license, 1993-94. The first was by negotiation toward one or more voluntary agreements among carriers, distributors [4] and copyright owners beginning no later than July of 1991. Parties not reaching voluntary agreement were to be subject to the compulsory arbitration represented by this proceeding. 17 U.S.C. 119(c)(2) and (3). Congress made it clear, however, that voluntary agreement "at any time" could replace or supersede the arbitration process or results.[5]

Arbitration is to be guided by seven factors set forth at 17 U.S.C. 119(c)(3)(D):

- The approximate average cost to a cable system for the right to secondarily transmit to the public a primary transmission made by a broadcast station.
- The fee established under any voluntary agreement.
- The last fee proposed by the parties prior to arbitration.
- Maximizing the availability of creative works to the public.
- Affording the copyright owner a fair return and the copyright user a fair income under existing economic conditions.
- The relative roles of the copyright owner and user with respect to creative contribution, technological contribution, capital investment, cost, risk, and opening of new markets for creative expression and media for their communication.
- Minimizing any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

Two of these seven criteria are not disputed as facts here. First, there were no voluntary agreements. (Hardy, Direct Test., 41; Tr. 53) Second, the last offer of the satellite carriers was 9.65 cents per subscriber per month for each superstation and 2.41 cents for each network station. The copyright owners last offered 25 cents per subscriber per month for each signal, without differentiating superstations from network stations. (Tr. 413)

The Panel has considered these last offers in reaching its determination. We believe the offers to be the beginning of a free market process rather than an approximation of its working, as no substantial negotiation took place. (Tr. 408-09)

Each of the other five criteria was disputed by the two sides in both fact and law. We discuss their contentions and our conclusions in order below.

Approximate Average Cost to Cable

I. Superstations

The SHVA requires this Panel to consider "the approximate average cost to a cable system for the right to secondarily transmit to the public a primary transmission made by a broadcast station, * * *" 17 U.S.C. 119(c)(3)(D).

The approximate average cost to a cable system of the statutory retransmission license for superstations was the subject of considerable testimony and argument. Each side presented an experienced witness, and each witness presented calculations supporting his view of the average cable cost. The satellite carriers sponsored the testimony of G. Todd Hardy, an attorney and former executive for Group W Cable, Inc., Millicom Incorporated, and PrimeTime 24 Joint Venture, a satellite carrier. (Hardy Direct Test., Exh. A) The copyright owners presented Allen R. Cooper, Vice President, Technology Evaluation and Planning of the Motion Picture Association of America, Inc. (Cooper Direct Test., 2; Tr. 165)

The two witnesses presented calculations of average cable cost which used the same arithmetic formula. Each started with cable royalties for a particular period of time and divided that sum by the number of subscribers to cable service. This result was divided again by the average distant signal equivalent (DSE) shown on the Cable Data Corporation compilation of the semi-annual Statements of Account filed by cable systems.[6] The figure obtained after dividing by average DSE was divided again by six, representing the months in the reporting period, to produce the final rate. The panel accepts this formula for determining average cable royalty cost per subscriber per month.

The Panel also accepts the Cable Data Corporation reports as accurately representing categories of cable systems and their compulsory license fees. This data was used by both parties as the basis for their calculations, with the differences discussed below. *See, e.g.*, Copyright Owners Exh. 1 and Satellite Carriers Exh. D. Finally, both parties used the average DSEs from the Statements of Account of Form 3 carriers,

[1] The terms "superstation" and "network station," as well as other pertinent terms, are defined at 17 U.S.C. 119(d). The term "independent station" is used interchangeably with superstation in this Report.

[2] The participating carriers are Eastern Microwave, Inc.; Netlink USA; Primestar Partners L.P.; Primetime 24; Southern Satellite Systems, Inc.; United Video, Inc. (Superstar Connection). The copyright owners are Program Suppliers (such as movie studios), Major League Baseball, National Basketball Association, National Hockey League, National Collegiate Athletic Association, Broadcaster Claimants, the Networks (ABC, CBS, NBC), Public Broadcasting Service, American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

[3] 17 U.S.C. 119(d)(10).

[4] Certain distributors represented by the National Rural Telecommunications Cooperative negotiated separately from the satellite carriers, but for purposes of the arbitration decided to align themselves with the position of the carriers. Letter from John B. Richards to Virginia Carson, January 31, 1992.

[5] H.Rept. 100-887, Committee on the Judiciary, 100th Cong., 2d Sess., August 18, 1988, 23.

[6] The DSE is a composite of (a) distant independent signals and (b) distant network signals (including noncommercial educational stations) which are assessed one-quarter of the royalty assigned a distant independent. 17 U.S.C. 111(f).

because this is the only calculation of DSEs available. Form 1 and Form 2 cable systems do not report stations as distant signals or DSEs. (Tr.163) The Panel adopts the DSE factor from Form 3 Statements of Account as the only reliable factor combining distant independent and network signals.

In calculating the average cost to cable systems for retransmitting broadcast signals, the witnesses differed in three major respects: (1) Revenues of Form 3 cable systems v. revenues of all cable systems; (2) the number of subscribers reported by Form 3 systems v. an estimate of all cable subscribers obtained from Nielsen audience surveys; and (3) the use of 1989 data, which contain a surcharge meant to compensate copyright owners for loss of syndicated exclusivity ("syndex") rights, v. 1990 data, which contain only a minimal syndex surcharge. *See e.g.*, Tr. 179–80. These points of difference will be addressed in turn.

The Universe of Cable Systems

The satellite carriers urge us to calculate the average cable cost using data from all cable systems. This data would include those small cable systems which report on Form 1 and Form 2 as well as the large systems from Form 3. The Form 1 cable systems have semiannual revenues less than $88,000, and the Form 2 cable systems have semiannual revenues of $292,000 or less. (Tr.162; Sat. Car. Br. at 12, note 5).[7] These systems pay modest, fixed statutory fees every six months, regardless of the number or composition (independent or network) of distant signals they import. (Tr. 163) The parties agree that Congress intended to spare small cable systems the administrative burden of complex filings and the economic burden of substantial fees. (Tr. 175, 322) In 1989, the Form 1 and 2 cable systems represented roughly 20% of cable subscribers and 2% of total cable compulsory license payments. (Tr. 320–21) *See also*, Copyright Owners Exh. 1, the Cable Data reports.

The satellite carriers believe that Congress consciously included (or failed to exclude) the small cable systems in the statutory phrase "approximate average cost to a cable system." The carriers further believe that Congress meant to include the small systems because it was setting royalty rates for satellite service in primarily rural areas where these small systems also operate. (Tr. 321–22) The carriers urge that Congress would have specified the use of Form 3 cable systems, either in the statute or in the legislative history, had Congress meant that only these large systems were to be the basis for comparison between cable and satellite services. *Id.*, Sat. Br. at 13–14. Parenthetically, the carriers also note that their calculation of average cable cost using 1988 data (which did not become available until mid-1989) would produce a figure close to the initial 12-cent rate which Congress prescribed. (Tr. 322, Car. Exh. K).

In contrast, the copyright owners present testimony that the 12-cent and 3-cent rates prescribed by Congress were derived from calculations based on Form 3 cable systems only. They testified the statutory rates came from negotiations conducted in 1986 and 1987 among the program suppliers, the cable systems and the Copyright Office. These negotiations attempted to simplify the cable royalty structure into a per subscriber rate. (Tr. 52) According to witness Cooper, the actual numbers were based on Form 3 data from 1984 and were projected to 1987. Witness Cooper recalls that the same numbers were adopted without change in the SHVA in 1988; our record shows no basis for a contrary conclusion. (Tr. 149–50, Owners Exh.11, Attachment 5)

The inclusion of Form 1 and 2 systems, the owners argue further, would distort the average cost calculation substantially, because only the Form 3 royalties vary by number and composition of distant signals imported. (Tr. 161) Finally, the owners argue the satellite carriers have semi-annual revenues which would place them in the Form 3 category were they to file as cable systems. Certain carriers did file copyright reports under the Form 3 rates before the passage of the SHVA. (Hardy Direct Test, at 33; see also, Tr. 485, 488) Copyright Owners Exhibit 8 shows further that even the smallest of the satellite carriers, Primestar Partners, serves 13,213 subscribers for eight signals each, well above the number of subscribers served by Form 2 cable systems. Each of the remaining carriers serves subscribers totaling also 200,000 or more.

The Panel concludes that the Form 3 data is the appropriate basis for calculating average cable cost. We believe that Congress accepted the estimate of average cable cost from the Form 3 data as reasonable information developed by negotiations among the relevant parties and the Copyright Office. (Tr. 364) According to our record, the 12-cent and 3-cent figures were the only rates considered by Congress prior to the passage of section 119. (Tr. 326) Further, the Form 3 reports are the only reports which vary by number and composition of distant signals, giving the only basis for derivation of a comparable satellite royalty. We further agree that the satellite carriers have revenues which would place them in the Form 3 category. Our calculation of average cable cost therefore uses the Form 3 royalties as the starting point. In contrast, the carrier calculation of a 12-cent rate using 1988 data is better seen as *post hoc* and fortuitous.

Number of Subscribers

The parties differ on the next component of the calculation, the number of subscribers by which the royalties are divided. The satellite carriers urge us to use a number which estimates the total number of households subscribing to cable. The carriers assert that the Form 3 subscriber numbers are "indisputably flawed," because a multiple dwelling unit (MDU) such as a large apartment complex can be counted as one subscriber. Sat. Br. at 19. By holding down the number of subscribers, the Form 3 reports would artificially drive up the average royalty per subscriber. (Tr. 316–17, Sat. Br. 18–20)

The owners, in contrast, urge us to use the number of subscribers on the Form 3 reports as stated. The owners argue that the number of subscribers estimated by Nielsen is only an extrapolation of audience surveys for which there is no verification. The Statements of Account, by contrast, are sworn statements which are required by law to be true and correct. (Tr. 397–98) Thus in this view, the average derived from the Form 3 royalties and subscribers is closer to the actual cable experience than the audience estimates of Nielsen, which can include cable pirates as well as paying households. (Tr. 164, Owners Br. at 35)

The Panel adopts the Form 3 subscribers for our calculation of average cost. We believe that the Nielsen estimates are not reliable enough to replace the sworn statements of the cable systems. Furthermore, these estimates are of all cable subscribers, whereas we have indicated Form 3 subscribers to be the appropriate figure. We further note that the affidavit of Thomas Larson, President of Cable Data Corporation, does not quantify the amount of undercounting he believes to be included on the Form 3 reports. (Carriers Exh. H) In the absence of a reliable quantification of the number of subscribers not accounted for on the Form 3 reports, the Panel adopts the Form 3 subscriber numbers.

Syndicated Exclusivity

The copyright owners raise an issue stemming from the fact that they cannot guarantee exclusivity of programming to, and thus command exclusivity-based prices from, local television stations in markets where satellite carriers provide distant signals. This loss of exclusivity for syndicated programming is the most complicated issue with regard to approximate average cable cost, and the issue with the most financial impact. The parties are agreed on the background of this issue which we recap only briefly.

When the Copyright Act of 1976 established the cable compulsory license, the cable systems operated under FCC rules protecting syndicated exclusivity. The FCC allowed local television stations to protect the exclusive rights to show a particular program by requiring the cable systems to black out that program from any distant signal brought into the market. Local network stations were protected by a separate set of network non-duplication rules.

In 1980, the FCC determined that the syndicated exclusivity rules no longer served the public interest and repealed them. Report and Order, Docket Nos. 20988 and 21284, 79 F.C.C. 2d 663 (1980). The Tribunal then placed a surcharge on Form 3 cable systems to compensate the owners of broadcast programming for the loss of their ability to sell the programs exclusively in a given market. Adjustment of the Royalty Rate for Cable Systems, 47 FR 52146 (Nov. 19, 1982). The syndicated exclusivity surcharge amounted to roughly 20% of the cable royalties for Form 3 systems. (TR. 307; Panel Exh. 1)

In 1988, the year Congress passed the SHVA, the FCC reinstated syndicated exclusivity and adopted a new set of blackout rules, effective in 1990. Report and Order, Gen. Docket No. 87–24, 3 F.C.C. Rcd 2711 (1988). The program owners and

[7] These revenues would correspond to approximately 5,000 subscribers or fewer, calculated at $10 per month for basic service.

independent stations argued forcefully before Congress that syndicated exclusivity should also be imposed on satellite carriers. Congress directed the FCC to impose exclusivity on satellite services if it were technically feasible.[8] After an inquiry into the mechanics of blocking out satellite signals to the dishes, the FCC determined that syndicated exclusivity could not feasibly be imposed before the SHVA expires in 1994. On that ground, the FCC declined to impose syndicated exclusivity on satellite carriers. Report and Order, Gen. Docket No. 89-89, 6 F.C.C. Rcd 725 (1991).

The copyright owners urge us to implement a syndicated exclusivity surcharge similar to the one placed on cable systems by the Tribunal from 1982 through 1989. The owners' proposal would place a surcharge on satellite carriers by using the 1989 royalty data as the base for our calculation of average cable rates. The copyright owners further argue that they are entitled to compensation for each use of their programming, especially where the FCC has not afforded blackout protection for programming sold on an exclusive basis. Owners Br. at 12-13.

The satellite carriers urge the converse, that a syndicated exclusivity surcharge should not be imposed since the cable systems do not pay one. (Tr. 308) Indeed, the carriers argue that they are at a competitive disadvantage now, because cable royalty rates have declined with the repeal of syndex surcharges while satellite rates stayed the same. The satellite carriers further argue that their services generally are provided in areas which lack off-air television reception.[9] Normally no local station would have purchased the right to show programming exclusively in these rural markets. (Tr. 310, 332) In many of these areas, moreover, the FCC rules had exemptions which would have relieved the cable systems from the black-out requirements. (Tr. 309, 329) Finally, the carriers argue, three of the most popular independent stations—WTBS, WGN and WOR—have arranged for "syndex-proof" feeds which they supply to cable systems and home dish owners. (Tr. 309; see also, Tr. 45)

The Panel has concluded that Congress meant for syndicated exclusivity to apply to the satellite carriage of broadcast signals if technically feasible. This was the instruction embodied at 47 U.S.C. 712. As satellite service grows, moreover, we believe that the signals may compete to a greater extent with those of local stations purchasing programs on an exclusive basis. (Tr. 285-87) Thus the copyright owners have lost the ability to sell exclusive rights to programming, and we believe some surcharge to compensate for this loss is in order. We therefore base our calculation of average cable cost on the data from 1989.

Having concluded that a syndex surcharge should be applied to satellite signals, we further conclude that the surcharge should only apply to those signals which have not eliminated any syndex conflicts. For those signals which comply with syndex requirements, we do not believe a surcharge is necessary or appropriate.

Thus we provide below our rates based on 1989 data and the other factors set forth earlier—including Form 3 data with its number of subscribers—for independent signals which have not cleared all of their programming for syndex purposes. A second, discounted rate is provided for any superstation signals which have eliminated all syndex conflicts.[10]

If the carriers wish to take advantage of the discounted rate, we will require an affidavit with each semi-annual filing. The affidavit will affirm that the signals to which the discounted rate was applied have carried no programming which would be subject to claims of cable syndicated exclusivity during the six-month period covered.

A number of witnesses stressed their belief that Congress meant this arbitration hearing to be part of the transition to a free marketplace for negotiation of copyright royalties. The Panel believes that by encouraging the provision of statellite feeds which are cleansed of any syndex conflicts, a step toward a free marketplace (and parity with cable systems) has been taken. In any event, the Panel believes that syndex surcharges must take the place of the blackout protection which carriers cannot now provide. Conversely, the charges are not required for those signals which by voluntary action have avoided any conflict with the syndex rules.

Summary. The Panel calculates the approximate average cost of retransmission royalties to cable systems according to the data on Form 3, both as to royalties and number of subscribers, and uses data for the year 1989. The result comes to 16 cents per signal per subscriber, with calculations as follows:

1989-2 Cable Data Corporation Report

Form 3 Royalties: $101,266,449

divided by

Form 3 Subscribers: 40,660,045

$2.49 per subscriber

divided by

Form 3 DSE: 2.644

94.1 cents

divided by six months

15.7 cents per subscriber per month (rounded to 16 cents) Congressional Budget Office ("CBO") inflation estimates of 3.3% for 1992 and 3.6% for 1993. Only half of the latter rate, or 1.8%, is taken into account, to reflect inflation through mid-1993. The copyright owners maintain that this is a conservative approach, since cable subscriber rates for basic service may well exceed inflation, with a corresponding effect upon cable compulsory license fees.

The satellite carriers oppose any upward adjustment. They argue that reregulation of basic cable fees by FCC decision [11] or proposed legislation (S.12) may reverse the trend of recent years when cable rates rose substantially. They also suggest that the "re-tiering" of basic services by cable operators to remove them from the scope of rate regulation will keep cable compulsory license fees down. And they point to the fact that fees in recent years have leveled off, despite the growth of basic cable revenues. (Brief, 11-12)

We have concluded that an inflation adjustment is appropriate, but one which increases the cable royalty estimate to 17.5 cents, rather than the higher figure proposed by the copyright owners. We have arrived at this figure by eliminating any adjustment for the year 1990, when cable royalties—net of syndex surcharges—were essentially at the 1989 level.[12]

Given that the rates fixed in this proceeding will be in effect through 1994, we cannot assume with the satellite carriers that basic cable rates will not increase at least at the relatively moderate rates of inflation we have taken into account. Past history, consumer demand for cable programming and the market position of the cable industry all militate against such a conclusion.

The 1989 calculation is adjusted by the inflation and other factors discussed below to derive a final rate for retransmission of independent stations. The rate for network stations is also separately discussed below.

For those independent stations which avoid syndex conflicts, the panel provides a discounted rate of 20% below the independent station rate. The 20% discount approximates the historical percentage that syndex comprised of total fees.

Adjustment for Inflation

The preceding discussion has focused on determined the actual level of cable compulsory license fees for 1989, the latest year is which syndex surcharges applied. However, the rates fixed in this proceeding will not go into effect until January of 1993, and will continue to apply to satellite carriage of broadcast stations through December of 1994.

We believe it our responsibility to make a reasonable estimate of the level of cable fees in the 1993-94 time frame. The statutory mandate to consider the "approximate

[8] 47 U.S.C. 712; *see also*, Hearings, H.R. 2848, Satellite Home Viewer Copyright Act, Subcommittee on Courts, Committee on the Judiciary, November 19, 1987 and January 27, 1988, 294.

[9] Our record did not provide information as to the distribution of HSD subscribers between rural and urban or suburban areas.

[10] For purposes of this determination, a satellite retransmission of a broadcast signal shall be deemed "syndex-proof" if, during any semi-annual reporting period as fixed by section 119(b), the retransmission does not include any program which—if delivered by a cable system to a cable subscriber at the same point of reception as the HSD subscriber—would be subject to the syndicated exclusivity rules of the Federal Communications Commission.

[11] *Reexamination of the Effective Competition Standard*, 6 FCC Rcd 4545 (1991).

[12] For 3 cable royalties for the full years 1989 and 1990, after deducting the syndex adjustment which was virtually eliminated in 1990, were $156,475,491 and $158,692,570, respectively.

average cost to a cable system" of secondary transmission rights fairly requires matching the rate comparison to the approximate time period. Otherwise the Congressional purpose of achieving a measure of rate parity between the two media would not be realized.

This conclusion is necessitated by the difference in structure of the cable and HSD retransmission fees. The cable fee, expressed as a percentage of operator gross receipts, has a built-in adjustment mechanism, allowing fees to increase (or decrease) along with revenues. HSD fees, expressed as stated dollar amounts, will not, without adjustment, keep pace with the rates of the cable industry.

The copyright owners would adjust the 1989 16-cent cable superstation rate to 18.5 cents for 1993. This figure is derived by applying actual U.S. Bureau of Labor Statistics ("BLS") inflation rates of 5.4% and 4.2% for 1990 and 1991, and

We also know that retiering would apply to only a portion of cable subscribers; and that, however effective the practice may be in reducing the impact of basic rate reregulation, it would not have a concomitant effect on cable compulsory royalties in view of the broad definition of "gross receipts" in section 111 as construed by the Copyright Office and the courts.[13]

Accordingly, we calculate the inflation adjustment in the following manner:

1991 Inflation Rate: 4.2% (BLS)	
$0.16 × 1.042	$0.1670
1992 Inflation Rate: 3.3% (CBO)	
$0.167 × 1.033	$0.1725
1993 Inflation Rate: 3.6% (CBO)/2	
$0.1725 × 1.018	$0.1750

We are aware that there is always some risk in estimating future rates. Indeed, the initial 12-cent fee set in section 119 for superstation carriage—apparently based on projections used in copyright owner-cable industry negotiations—nevertheless fell short of actual cable rates in the 1989–92 period by approximately 4 cents, or more than 30% (Cooper, Direct Test., 3) We believe that our projection of an increase of 1.5 cents (17.5 minus 16) on a larger base is not likely to lead to a windfall for either of the sides, and is consistent with our mandate, under section 119(c)(2)(D), to consider approximate average cable costs for the 1993–1994 license period.

Weighing the Additional Criteria

The carriers testified that the fourth, fifth, sixth and seventh criteria in the statutory order of listing were to be considered only *after* the primary factor—approximate average cost to cable—had been determined. Average cable cost should be the "presumptive" HSD 1993–94 royalty rate. Unless the rate suggested by that initial determination would be inconsistent with the four objectives, or would "clearly frustrate" their achievement, the Panel should adopt it. (Hardy, Direct Test., 49)

By contrast, the copyright owners saw the four objectives as central to the Panel's task of establishing a new royalty rate more nearly reflecting "marketplace value" of the retransmitted broadcast station signals. (Valenti, Direct Test., 4–6) The final four criteria in the statutory order were said to be synonymous with "market considerations." (Kryle, Tr.235–38) For the carriers, however, Congress thought of market value as a function of voluntary negotiation and not something that could or should be established by the Panel. (Hardy, Tr. 341–43.)

Both sides have argued ably these points of law. The Panel concludes, however, that Congress meant for us to consider approximate average cable cost and the four additional factors coequally. The language of section 119(c)(3)(D) treats these criteria as conjunctive and coordinate. We find no basis there or in the legislative history to consider one factor as primary in relation to the others.

The carriers appear to suggest that the order of listing in the statute gives primacy to the criterion of approximate average cable cost. (Brief, 4) We do not believe this to be Congress' intent, any more than we believe—by reference to the fifth criterion in section 119(c)(3)(D)—that "fair return" to the copyright owner necessarily is more important than "fair income" to the user. Because the law itself seems clear, we are not convinced legislative history must be examined to interpret the statute.

To the extent we do so, at the invitation of the carriers (Brief, 5–6), the cited House Judiciary Report specifies that approximating the satellite carrier royalty rate to the rate paid by cable systems is based on the two transmission agents' engagement in "the same or similar activities." Because the operations of satellite carriers and cable systems show practical dissimilarities, we have differentiated their royalty rates.[14]

Creative Works: Availability and Fair Return

The Panel believes it reasonable to assume that creative works will be made available if they earn a fair return in the marketplace. Similarly, commercial exploitation of the works depends on users' expectations of fair income.

Owner Testimony

The copyright owners' principal evidence on market value of programming comparable to that carried on distant broadcast television station signals is found in the testimony of witnesses Silberman and Cooper. Because the distant signals themselves, whether transmitted secondarily by satellite carriers or cable systems, are subject to compulsory copyright license, the comparison of market prices cannot be direct.

Accordingly, Dr. Silberman began by analogizing distant signal programming to that found on a composite of four programming services, typically originating on cable systems rather than broadcast stations and thus not subject to compulsory licensing. He testified as to the "top of the rate card" prices paid by cable operators for these services, and came up with a composite rate of 27.9 cents per subscriber per month after weighting the prices by the numbers of subscribers to each service. Since the prices are said to include a cost of delivery to the cable operator's headend, the witness subtracted from the composite rate a satellite carrier's cost of transmission he stated could be generously estimated at one cent. (Silberman, Direct Test., 5–8 and Exh. 4)

Dr. Silberman acknowledged that the program services he used for his composite channel differ from retransmitted broadcast signals in the ability of the cable operator to sell advertising time on the former but not on the latter. He said that this would "increase slightly" the value of the program services (*Id.*, 7), but on Panel examination could not quantify the amount more closely than a 1-to-4 cent range. (Tr. 83)[15]

In another portion of his testimony, Dr. Silberman took note of a price of about 67 cents per signal per subscriber charged to a distributor, NRTC, by certain satellite carriers. He observed that this price was far above the 12 cents paid by the carriers under compulsory license. (Silberman, Direct Test., 9–10) On cross-examination, the witness generally claimed unfamiliarity with the special costs faced by satellite carriers to deliver signals, but stated repeatedly his opinion that if the carriers could charge distributors 67 cents, they could afford to pay 27 cents for the rights to programming and still have "40 cents to play with" in covering other costs. (Tr. 101)

In a third approach to market valuation of distant broadcast signals, Dr. Silberman started from what he said was copyright owner witness Allen Cooper's 16-cent value for each of three superstations in 1989. Allowing for inflation and other upward pressures, he said the value would rise to 21 cents by 1993. To that was added a cost of satellite carriage estimated at four to 10 cents per signal per subscriber. Choosing a mid-range number of six cents for transport, Dr. Silberman concluded that the 27-cent result comported well with his initial approach based on a composite of four cable program services. (Tr. 130–31) Under Panel questioning, however, the witness said that his calculation represented only a "best guess" and that "if we're a few pennies more or a few pennies less in 1993, I would most certainly not be surprised by that." (Tr. 133)

Copyright owner witness Cooper gave evidence on the prices carriers and distributors charged HSD users for independent and network signals. He testified that the average rate per month per signal—combining independent and network stations—was $1.09, with 99 cents being "the most common rate." (Cooper, Direct Test., 4, and Tr. 151–55). The witness noted that these prices were eight or nine times the 12-cent license fee for superstations.

[13] *Cablevision Sys. Dev.* v. *Motion Picture Ass'n*, 836 F.2d 599 (D.C. Cir 1988). *See also*, 37 C.F.R. § 201.17(b)(1). *Cf.* H.R. Rept. No. 1476, 94th Cong., 2d Sess. 175 (1976).

[14] See, for example, the consideration of the "syndex surcharge," *supra*, and network station rates, *infra*.

[15] In a later Information Filing (Exh. 11, Attachment 1) by the copyright owners, treated by consent as "argument of counsel," (Tr 536–39) a figure of 2.8 cents was estimated as the net profit per signal per subscriber per month. In the third paragraph of their Information Filing (Exh. 1), also consented to as argument of counsel, the satellite carriers estimated the number to be 7.1 cents per subscriber per signal.

Another copyright owner witness, Edwin Desser, spoke to the issue of market value of sports programming comparable to that carried by broadcast distant signals. In three examples, the values ranged from 10 cents to 62 cents per subscriber per month. (Desser, Direct Test., 2–3) Under Panel examination, the witness said that the total market value of a distant station carried chiefly for its sports appeal would at least equal—and probably exceed—the value of the sports programming. (Tr. 204) On cross-examination, Mr. Desser agreed generally that regional sports networks such as those used in his examples were permitted to sell advertising time associated with the sports events. (Tr. 214)

Carrier Testimony

Satellite carrier witness G. Todd Hardy testified that carrier-proposed royalty rates of 9.8 cents and 2.45 cents for independent and network stations, respectively, would be consistent with the objectives of maximizing availability of creative works and assuring copyright owners a fair return. (Hardy, Direct Test., 52–55) [16]

Hardy stated that by comparison with 90 million and 50 million households served by broadcast and cable television, the 600,000 or so HSD users are too small a group to have any significant effect on creative output. On the other hand, he said, setting royalty rates for satellite carriers too high could impede distribution of creative works to viewers who cannot receive them except by HSD service.

Just as the HSD industry is too small to affect creative output, so it is unable—by itself—to guarantee a fair return to program copyright owners. It contributes to that return, however, by extending the reach of networks and stations carrying advertising. According to Hardy, "this presumably benefits the retransmitted broadcast stations, and theoretically allows the copyright owners to secure higher fees for their initial licensing to those stations." (*Id.*, 54) The witness also suggested that the relative stability of HSD subscription rates over recent years means that these prices are at or near their limit. This, he said, would make it more difficult for carriers to absorb royalty rate increases.

Panel Discussion

The owners and carriers are completely at odds on the pertinence of "market value" to considerations of the effect of fair return and fair income on the availability of creative works. The owners consider the concept central to our royalty rate determination, and have supplied three different approaches to a market analogy for the value of retransmitted broadcast signals. Believing such constructions beyond the scope of our assignment, the carriers have declined to offer marketplace comparisons beyond the unrealized outcomes of negotiations between the two sides. (Hardy, Direct Test., 67–72; Brief, 30–36)

We agree with the owners that assuring the availability of creative works at a fair return to the copyright holder and a fair income to the user of rights involves marketplace considerations. However, we are not completely satisfied with any of the owner's three approaches to a market value for distant broadcast signals. Accordingly, the royalty rate we determine is substantially below the 27 cents proposed.

We find record support for each of the carriers' challenges to Dr. Silberman's testimony. (Brief, 43–49). His choice of four cable programming services as the building blocks for a composite channel was not the only possible selection, and in the end could not be proven as a close analogue to any of the distant signals in question. (Tr.79–81) Use of "top of the rate card" prices was, by the witness' own admission, a doubtful choice (Direct Test., 6, at n. 6; *see also* Tr 103). His testimony on the value to the cable operator of insertable advertising was imprecise and controverted. (Tr 83, 118; Carrier Information Filing, Attachment A) Rather than discuss in any detail possible differences in operating cost between cable operators and satellite carriers—differences which might affect the two industries' perceptions of program value—Dr. Silberman tended to rely chiefly on an asserted 40-cent difference between his composite price and the price charged one distributor by some satellite carriers. (Tr 100–110)

These difficulties in constructing a hypothetical free market for distant broadcast signals are not new. Ten years ago, the Copyright Royalty Tribunal examined at length similar proposals by owners attempting to value distant signals newly eligible for cable compulsory license.[17]

Dr. Silberman's second approach, supplemented by Mr. Cooper, is also less than convincing. Without a more detailed examination of the particular transmission and other operating costs of satellite carriers, especially in relation to such costs for cable operators, the Panel is unable to discern the significance to be given the prices charged to distributors or HSD users for various broadcast signal packages. Numbers ranging from 67 through 99 cents to $1.00 per subscriber might be meaningful in analyzing the satellite carrier industry's ability to absorb royalty rate increases, and to that extent will be discussed below. By themselves, however, these gross revenue figures cannot speak persuasively to the point of fair income to the satellite carrier as a user of creative works.[18]

Finally, we cannot credit a third approach by which Dr. Silberman, again assisted by Mr. Cooper, took a regulated rate paid for certain superstations under cable compulsory license and added to these a presumably market-based charge paid by cable operators to satellite carriers for the importation of these signals. (Tr 129–31) The witness chose a wide range for transport cost of 4 to 10 cents, and gave no particular reason for choosing 6 cents as the number to insert in his calculation. By Dr. Silberman's own implication in testimony (Tr 133), this hybrid of compulsory and voluntary rates seems less satisfying than the first approach.

Perhaps the most readily quantifiable of the elements in Dr. Silberman's initial composite of four cable programming services were the tables of license fees per subscriber per month for those services and similar non-broadcast offerings. (Owners Exh. 4) Despite the witness' demurrer (Direct Test., 6, n.6; Tr 93)), the Panel would be more inclined to look at average actual fees rather than top-of-card rates. For the sake of argument, if a value of insertable advertising midway between the 2.8 cents per subscriber of Dr. Silberman and the 7.1 cents of the carriers [19]—say 5 cents—and this is then subtracted from the 23-cent average calculated by Silberman (Tr. 93), the result comes close to the superstation rate we have determined by other means.

The Panel has acted on its belief that marketplace considerations are relevant by examining the only proposals in hand—those of the copyright owners. Given the identified weaknesses in each of the three approaches taken by owner witnesses, we think it reasonable that the rate we have determined falls below the rate requested by the owners. We do not find in the record sufficiently detailed evidence as to the revenues, costs and profits of the various businesses on both sides to cast doubt on the capability of our rate to achieve the objectives of making creative works available with a fair return to the copyright owners.

The carriers, by choice, did not supply market analogies and calculations. Nevertheless, we must do the best we can, on this record as given, to assure that the objective of fair income to the user is met. We have said earlier that the owners' mere recitations of per-subscriber prices to distributors and HSD owners cannot, by themselves, establish market value absent a better knowledge of satellite carrier costs.

The carriers, on the other hand, chose not to supply those costs, which were peculiarly known to them. They put forth the relative stability of their retail prices (Direct Test., Exh. B) as an implication that market ceilings had been reached, such that raising royalty rates would unfairly reduce carrier income. (Direct Test., 55–58). Another inference is possible: That initial rates turned out to be ample enough that increases have not been required. (Tr 357–58) When this inference is coupled with absence of detailed carrier response to the gap between owner-proposed

[16] In direct testimony at 54, the carrier witness also imputed significance to the decision of copyright owners to forgo certain 1990 cable royalty rate adjustments, which he said implied that the existing cable rate provided the owners a fair return. The Panel defers to the valuable principle that settlements of litigation are to be encouraged and thus not held against any party in the future. Accordingly, we have given no consideration to testimony about the agreement between cable operators and copyright owners not to pursue 1990 cable royalty rate adjustments.

[17] *Adjustment of the Royalty Rate for Cable Systems*, Docket No. CRT 81–2, 47 FR 52146 (Nov. 19, 1982), see text between notes 40 and 53; *aff'd sub nom. Nat. Cable T.V. v. Copyright Royalty Tribunal*, 724 F.2d 176 (1983). The Tribunal's 1982 analysis included regional sports networks, which we have considered here as well in connection with Mr. Desser's testimony.

[18] On the other side of the coin, neither can we give much if any weight to the undocumented assertion of carrier witness Hardy that a carrier with which he formerly was affiliated had not made a profit in five years. (Tr 272, 289, 489)

[19] To repeat, the Panel is treating these numbers, by consent, as argument of counsel on both sides. Note 15, *supra*.

royalty rates of 27 cents and 67-cent-to-$1.09 prices to distributors and HSD users, the Panel believes that its rate will not fail to provide fair income to the satellite carriers.

Relative Contributions and Risks

We are impressed by the testimony of Jack Valenti for the owners and G. Todd Hardy for the carriers that both sides have made great creative and technical contributions to the supply and distribution of a great variety of video programming to HSD users. It appears that each side needs and values the achievements of the other in opening new markets and in developing the media for their communication.

The appeal of the owners' works is amply shown by their popularity both at home and abroad. The technical ingenuity of the HSD industry is demonstrated in many ways, but perhaps most significantly by (1) the declining size and price—as well as the flexible, multi-satellite orientation—of home terminals; and (2) the development of a descrambling authorization center which, we understand, will be upgraded in the near future in ways that will benefit owners, carriers and users. Carrier witness Hardy testified that, by making HSD signals more piracy-proof, the new technology might increase subscribers by as much as 100% (Hardy, Direct Test., 55–57; Tr 286–87)

In its full measure, the statute bids us consider not only creative and technological contributions but also capital investment, cost and risk. While these elements may be larger in the absolute for the owners, we are inclined to agree with witness Hardy that investment, cost and risk have been relatively quite high for satellite carriers and their allied manufacturing and distribution businesses. On balance, we find no reason on this record to conclude that one side's overall contributions, in relation to those of the other, are so much greater as to have independent effect on our rate determination.

Disruptive Impact

Section 119 asks us to consider disruption of both structure and "prevailing practices" in the businesses on both sides. Our examination here necessarily covers much of the same ground as in the previous discussion of creative works made available with fair return and fair income. The Panel has kept the correlations of these factors in mind as it analyzed the criterion of disruptive impact.

Carrier witness Hardy testified that because the HSD industry is so small by comparison with the businesses of the owners and their allies, "it is difficult to imagine any HSD [royalty rate] materially affecting the owners." In contrast, he said, a rate increase of the magnitude proposed by the owners would harm the HSD industry in at least two ways: (1) The carriers would be at a "competitive disadvantage vis-a-vis the cable industry;" and (2) because the HSD market "is already at, or near, its price limit," royalty increases of 100% or more would be a "severe jolt" that could not be absorbed through increased revenues. (Direct Test., 58)

Concerning competitive disadvantage, we believe our calculations and discussion of the principal carrier/cable rate disparities—syndex surcharge and network differential—have been properly sensitive to Congressional concerns. With regard to the more significant of these factors, the syndex surcharge, the satellite carrier pays a higher royalty rate than cable, but is not burdened by the blackout requirements applied to cable operators.

Not only in comparison with cable, but in an absolute sense, we have tried to avoid carrier "rate shock." From the record on the significant differences between the more established HSD business of retransmitting superstations and the newer and shakier undertaking of delivering network signals into severely circumscribed geographic areas, we are concerned that the independent station license fee not be set so high as to be not only injurious in itself but also damaging in its upward effect on the network station rate. (Tr 350–61)

As discussed above, the carriers were quick to point out that owners did not understand HSD industry costs or had erred in trying to estimate them. The carriers, however, chose not to fill in or correct the cost picture in any detail. Based on the record as a whole, we are unable to conclude that the business structure or practices of the carriers in the HSD industry will be disrupted by the relatively small increases in license fees we have determined.

On the owners' side, the direct testimony of witnesses Valenti (5) and Cooper (3) spoke in terms of "subsidies" to and "underpayments" from the carriers. In their view, such transfers are antithetical to fair return on copyright. Mr. Cooper and Dr. Silberman together invited us to infer substantial cushion in carrier prices that could absorb license fee increases of the magnitude proposed.

The owners' evidence, however, did not go so far as to prove that the flow of creative works to HSD users would be disrupted if a 1993–94 royalty rate less than 27 cents per subscriber per signal were adopted. In fact, Mr. Valenti stated simply that neither side should gain "unfair advantage" by the compulsory HSD license, thus implicitly taking the question back to fair return. (Direct Test., 6)

II. Network Stations

Perhaps the most difficult task facing this Panel has been the determination of a reasonable fee for retransmission of network signals. There is a fundamental difference between Sections 111 and 119 in the consideration of copyright protection accorded programs carried on network affiliates. Section 119 and its legislative history do not provide a definitive report of Congress' intentions on this issue. We believe there are at least two ways to view the statutory scheme and its consequences for programs of network affiliates.

Because the two approaches below are a composite of evidence and argument from the copyright owners and the satellite carriers along with the Panel's own development of these positions, for purposes of discussion we choose neutral captions not attaching them to either side.

First Approach

The House Judiciary Committee Report on the 1976 Copyright Act (No. 94–1476, at 90) states as to section 111:

> [T]he Committee has concluded that the copyright liability of cable television systems under the compulsory license should be limited to the retransmission of distant non-network programming.

The Committee explained that liability should not extend to network programming because its retransmission "does not injure the copyright owner." This was so, according to the Report, because: "The copyright owner contracts with the network on the basis of his programming reaching all markets served by the network and is compensated accordingly."

By contrast, in the SHVA Congress expressly included network programming in the new compulsory license. 17 U.S.C. 119(a)(2). The House Judiciary Committee Report on the legislation thus states:

> [T]he bill takes affirmative steps to treat similarly the measure of copyright protection accorded to television programming distributed by national television networks and nonnetwork programming distributed by independent television stations. [20]

This difference in approach is consistent with section 119's limitation of network signal retransmissions to "white areas." As we have seen, the Section 119 compulsory license is expressly confined to secondary transmissions "to persons who reside in unserved households." 17 U.S.C. 119(a)(2)(B) "In essence," as the House Commerce Committee Report states, "the statutory license for network signals applies in areas where the signals cannot be received via rooftop antennas or cable." [21]

The royalty provisions of sections 111 and 119 reflect the differences in their treatment of network programs for purposes of the compulsory license. Section 111(d)(3) expressly provides that cable royalties may be distributed only to an owner of "a non-network television program." The 1976 House Judiciary Committee Report explains that this is "[c]onsistent with the Committee's view that copyright royalty fees should be made [sic] only for the retransmission of distant non-network programming." H.Rept. 94–1476, at 97.

By contrast, section 119(b)(3) states that royalty fees shall be distributed "to those copyright owners whose works were included in a secondary transmission for private home viewing made by a satellite carrier * * *." In a proceeding challenging distribution of HSD copyright royalties to owners of network programs, the Tribunal has ruled that, under the clear language of the above section, "copyright owners of network programs are entitled to participate and prove their entitlement in the distribution of the satellite carrier fund." [22]

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[20] Report No. 100–887 (Part 1), 15.

[21] Report No. 100–887 (Part 2), 14.

[22] *1989 Satellite Carrier Royalty Distribution Proceeding*, 56 FR 20414, 20416 (May 3, 1991) The Tribunal relied upon the plain language of the statute. Finding the Report of the Judiciary Committee, which has jurisdiction over copyright, consistent with this holding, the Tribunal rejected a contrary statement in the House Commerce Committee Report (discussed *infra.)*

In section 111, since network programming (then estimated to represent 75% of a network affiliate's total viewing) was not copyright-protected, Congress assigned those signals a DSE value of only 25%. This effectively resulted in cable systems paying fees for independents and affiliates at a 4 to 1 ratio.

When it came to setting fees for the initial period of the SHVA license, Congress maintained that ratio. The only explanation given by the House Judiciary Committee for the 12-cent and 3-cent rates was: "These fees approximate the same royalty fees paid by cable households for receipt of similar copyrighted signals." [23] While this statement makes evident sense as to independent stations, which are treated similarly under the cable and HSD compulsory licenses, the Judiciary Committee did not explain the initial parity of network rates—given the dissimilarity in the copyright treatment of network programming under the two sections.

The House Commerce Committee, which also reported on the SHVA, did offer an explanation. It quoted the statement in the 1976 House Judiciary Report that "the viewing of non-network programs on network stations is considered to approximate 25 percent." Carrying this logic forward, the Committee concluded that copyright owners of network programs would not be entitled to share in royalties for retransmissions of network signals to "white areas." Report 100-887 (Part 2), 23.

The copyright owners of non-network programming relied on this statement in seeking a Tribunal determination excluding network programming from section 119 royalty distributions. As we have seen, the Tribunal rejected that contention in light of the clear language of the statute.

Accordingly, the copyright owners before this Panel assert that the fee collected for network stations must be the same as that collected for independent stations. (Kryle Test., 1, 3, 6; Brief, 49-52) They view retransmission of network signals into white areas as a new use of their product for which they are entitled to compensation. They argue that any effect on network advertising receipts is irrelevant. What is relevant is that the carriers are profiting from this new mode of commercial exploitation of their copyrighted works. (Tr 232-33)

Second Approach

The same legislative material is susceptible to a second and equally respectable view. That is, section 111 and 119 (as written in 1988) treat network signals alike for purposes of license fee *collection*, but they are different in the matter of fee *distribution*. This latter aspect was what the House Judiciary Report referred to when it spoke of "affirmative steps to treat similarly" network station and independent station programming.

Despite section 119's entitling of network program owners to participate in distributions from the satellite royalty pool, the law as written—for reasons that may not be discernible—does not require a match between fees paid in and funds drawn out. Instead, the carriers assert that Congress deliberately retained the 1976 ratio in 1988 to assure their industry's parity with cable systems for competitive and other reasons. (Brief, 25-30)

Besides their competitive parity argument, the carriers essentially claim that network program owners and the networks themselves are not harmed, but helped, by HSD extension of network signals into unserved areas. They point out that cable operators historically have engaged in such importation, and that Congress in 1988 was aware that satellite carriers and distributors would perform a similar function. Accordingly, the 4:1 ratio was retained. (Hardy Direct Test., 32; Brief 28)

The "white areas" restriction on satellite carrier retransmission of network stations is only briefly described in the House Judiciary Report on the SHVA, but extensively discussed in the Commerce Report. There it is explained as a means of preserving the exclusivity of valuable relationships of networks and their affiliated stations, by precluding satellite carriers from importing network stations into areas already served by a local station carrying that network.[24]

Asserting that the record demonstrates lack of HSD influence on the network advertising market, the carriers suggest:

Advertisers dealing with the networks doubtlessly assume they are buying into nationwide distribution without even considering the "white area" and HSD issues. Copyright holders presumably make the very same assumption. (Brief, 29)

By extension, this reasoning would explain why on the collection side the Congress in 1988 initially retained the network signal differential, on the ground that carriers should not be paying a second time for network programming.

The Fairness Objectives

Both the first and second approaches are plausible interpretations of a tangled legislative background. We add to them, however, considerations of practicality and equity which preclude our taking either approach to its end, unmodified.

We find, initially, that we are not bound in law to continue the 4:1 ratio in fee collections for independent stations and network stations. As noted elsewhere in this Report, royalty rate parity is only one of several criteria Congress set for our consideration.

However, if under the first approach we were to fix the new ratio at 1:1, carriers would pay 17.5 cents for retransmitting network signals, a rate nearly six times the current fee. If we adopted the second approach, the 4:1 ratio would produce a rate of 4.4 cents. As discussed below, this approach does not conform to present-day estimates of the amount of non-network viewing on network affiliates. To choose between these figures, we look for guidance in the record as to a payment that would be fair in return to the owner, fair in relation to the income of the user, and not disruptive to the business structure or practices of either.

Affording the Copyright Owner a Fair Return. In appraising this factor, a comparison with the return to the copyright owner from HSD distribution of superstations—currently four times the return from network stations—is pertinent. This is especially true since the prices charged by satellite carriers or their distributors to HSD owners for network signals are as high or even higher than the prices charged for superstations. Carrier witness Hardy testified that the price charged in 1992 by PrimeTime 24 for network signals was about $12.50 per year per signal, while the price charged by Superstar Connection for superstation signals was $11.00 per year per signal. (Tr 462-63) Indeed, PrimeTime 24 subscribers who subscribe to only one or two of its three network station signals—primarily because they are not "unserved" with respect to all three networks—pay an undiscounted, three-network price of $37.50 annually.

Actually, it may be that the series and sports programming on network stations, for which large sums are expended by the networks, is of greater value to the HSD subscriber than superstation programming. To the extent that HSD subscribers have program interests similar to those of cable subscribers, a survey at Owner Exh. 9 appears pertinent. Two out of three cable subscribers responded that they would either definitely cancel or consider cancelling their cable subscriptions if network stations were dropped from their cable systems. Kryle, Direct Test., 8.

These considerations support a network station rate at least equal to that charged for independent stations.

Affording the Copyright User a Fair Income. Carrier witness Hardy testified that PrimeTime 24, a company he founded, has not yet shown a profit from its combined activities in five years of operation. He believed the same to be true of Netlink, the other principal carrier of network stations. Despite requests, this testimony was not accompanied by cost data, financial statements or like evidence which could be subjected to meaningful examination.

Nonetheless, we believe that distributing network signals may be less profitable than distributing superstations to the HSD market. This is because even before development of the HSD market, superstation carriers served a large cable market through distribution arrangements with cable operators serving tens of millions of subscribers. The additional revenue derived from extending that distribution to HSD owners, with little incremental expense so far as this record shows, would appear to yield significant incremental profits. By contrast, satellite carriage of network stations is a new business established expressly to serve the HSD market. (Tr 350-61) In addition, the potential HSD market for network stations may not be as great as that for superstations, since it is confined to white areas comprising only 1% of the nation's TV households. (Kryle, Direct Test., 7)

These considerations would lead us to a reduction in the 1993-94 royalty rate for network stations to perhaps 50% of the superstation rate.[25]

[23] Report No. 100-887 (Part 1), 22.

[24] Report 100-887 (Part 2), 19-20.

[25] We also have given separate attention to the criteria of creative works' availability and relative

Continued

An Alternative Approach

A similar result would follow were we to accept the carriers' view, *inter alia*, that Congress intended no value to be assigned retransmissions of network programs on network stations because of the benefits derived from extension of network advertising to additional viewers.

Evidence supplied by the owners suggests that relative viewing of network and non-network programming on network stations today is closer to 50–50 than 75–25. (Informational Filing, Attachment 4) Applying these numbers would also lead to a network station royalty rate of about half the superstation rate.

Network Station Rate Determination. Based on all the foregoing factors, we would set the network station compulsory license fee for 1993–94 at approximately 8 cents. There remains for us to consider, however, the final criterion of industry disruption.

We are concerned that an immediate increase on this scale might be disruptive to satellite carriage of network signals. Given that the rates fixed by this proceeding will be in effect for only two years, we are setting the rate for that period at 6 cents. This is about 1.5 cents higher than would have resulted under the 4:1 ratio fixed for 1989–92, an increase which we think is not only reasonable under all the circumstances, but also one which the HSD industry can prepare for between now and January of 1993.[26]

Conclusion

For all the reasons discussed above, the Panel determines that the compulsory license fees to be paid in 1993 and 1994 by satellite carriers for the right to transmit secondarily to the public, for private home viewing, primary transmissions of broadcast stations should be:

- 17.5 cents per subscriber per month for independent stations, also known as superstations;
- 14 cents per subscriber per month for independent stations whose signals are syndex-proof, as defined at note 10; and
- 6 cents per subscriber per month for network stations, including public broadcasting stations.

Pursuant to section 119(c)(3)(C), the Panel determines that the entire cost of this arbitration proceeding should be borne equally by the respective sides, the copyright owners on the one side and the satellite carriers on the other.

Respectfully submitted,

Arbitration Panel

Virginia S. Carson,

Chairperson.

James R. Hobson,

Arbitrator.

David H. Horowitz,

Arbitrator.

March 2, 1992.

Certification of the Record

The Arbitration Panel, by its Chair, certifies the following documents as the Record in CRT Docket No. 91–3–SCRA:

Written Direct Testimony of: Jack Valenti, Fritz Attaway, Allen Cooper, Stephen Silberman, Edwin Desser, Sanford Kryle, received February 10, 1992 as if given orally.

Written Direct Testimony of: G. Todd Hardy, Appendix to Direct Testimony of G. Todd Hardy received February 11, 1992 as if given orally.

Exhibits

Copyright Owners Ex. 1: Cable Data Corporation, reports of cable system copyright royalties, 1986–1989.

Copyright Owners Ex. 2: Satellite Service Ads/"Orbit" Magazine.

Copyright Owners Ex. 3: Program Schedule for November 15, 1991, December 10, 1991, and January 23, 1992 for cable services Arts & Entertainment, WTBS, WGN, TNT, USA, Nickelodeon.

Copyright Owners Ex. 4: Cable TV Programming Report, Paul Kagan Associates, Inc., March 25, 1991.

Copyright Owners Ex. 5: Ads for sporting events on satellite television services.

Copyright Owners Ex. 6: Report, FCC Gen. Docket No. 89–88, Dec. 29, 1989.

Copyright Owners Ex. 7: Notice of Declaratory Ruling, CRT Docket No. 91–1–89SCD, May 3, 1991.

Copyright Owners Ex. 8: Statements of Account, Satellite Carriers, and Fee Generation Report, 1989–91.

Copyright Owners Ex. 9: America's Watching, Public Attitudes Toward Television 1991, Roper Organization.

Copyright Owners Ex. 10: Cable Television Developments, September 1991, National Cable Television Association.

Satellite Carriers Ex. A: Curriculum Vitae, G. Todd Hardy.

Satellite Carriers Ex. B: Satellite Carriers and signals carried.

Satellite Carriers Ex. C: Diagrams, High Density and Low Density Cable Systems.

Satellite Carriers Ex. D: Cable Data Corporation, Cable Systems Royalty Report, 1990.

Satellite Carriers Ex. E: 1990 Cable Compulsory Royalties (calculation).

Satellite Carriers Ex. F: 1990 Cable Compulsory Royalties (calculation).

Satellite Carriers Ex. G: Nielsen estimate of cable subscribers, 1990 by quarter and 1990 average.

Satellite Carriers Ex. H: Declaration of Thomas Larson, President of Cable Data Corporation.

Transcript of Hearing, February 10, 1992.

Transcript of Hearing, February 11, 1992 and Copyright Owners Exhibits 12–13, bound into transcript, Satellite Carriers Exhibits I, J, K, bound into transcript, and Panel Exhibit 1, bound into transcript. (Carrier Ex. I is an Information Filing.)

Copyright Owners Ex. 11: Information Filing, accepted with the exception of the further statement of Stephen Silberman. Mr. Silberman's argument was treated in the Brief of the Copyright Owners as argument of counsel.

Post-Hearing Brief of the Satellite Carriers, February 19, 1992.

Post-Hearing Brief of the Copyright Owners, February 19, 1992.

Transcript of Oral Argument, February 21, 1992.

I certify that the listing above contains the Record on which the Arbitration Panel based its award.

Virginia S. Carson,

Chair.

[FR Doc. 92–10211 Filed 4–30–92; 8:45 am]

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owner/user contributions, but conclude that they would not independently affect the outcome for network station rates.

[26] In theory, we could fix a rate for network signals cleared of syndex conflicts, but given the substantial adjustments already made in the rate for these signals, the absence on this record of any such cleared signals, and the relatively brief period of effectiveness for our determination, we decline to establish a syndex-proof rate for network signals.

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H.R. 4572/P.L. 102-276

To direct the Secretary of Health and Human Services to grant a waiver of the requirement limiting the maximum number of individuals enrolled with a health maintenance organization who may be beneficiaries under the medicare or medicaid programs in order to enable the Dayton Area Health Plan, Inc., to continue to provide services through January 1994 to individuals residing in Montgomery County, Ohio, who are enrolled under a State plan for medical assistance under title XIX of the Social Security Act. (Apr. 28, 1992; 106 Stat. 126; 1 page) Price: $1.00

H.J. Res. 402/P.L. 102-277

Approving the location of a memorial to George Mason. (Apr. 28, 1992; 106 Stat. 127; 1 page) Price: $1.00

Last List April 27, 1992

TABLE OF EFFECTIVE DATES AND TIME PERIODS—MAY 1992

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When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

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